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OFFICE OF THE CITY CLERK  
OAKLAND

Approved as to Form and Substance by

**DRAFT**

Deputy City Attorney

2010 JUL 21 PM 3:19

## OAKLAND CITY COUNCIL

Ordinance No. \_\_\_\_\_ C.M.S.

AN ORDINANCE AMENDING CHAPTER 3.13 OF THE OAKLAND MUNICIPAL CODE (AKA "THE LIMITED PUBLIC FINANCING ACT OF THE CITY OF OAKLAND") TO 1) LIMIT ELIGIBILITY TO CANDIDATES FOR DISTRICT CITY COUNCIL; 2) PROVIDE THAT PUBLIC FINANCING BE LIMITED TO THE REIMBURSEMENT OF SPECIFIED CAMPAIGN EXPENDITURES; 3) LIMIT CANDIDATES FROM MAKING CONTRIBUTIONS OR LOANS FROM PERSONAL FUNDS TO TEN PERCENT OF THE VOLUNTARY EXPENDITURE CEILING; 4) REQUIRE CANDIDATES TO RAISE IN LOCAL CONTRIBUTIONS AND MAKE IN EXPENDITURES AMOUNTS EQUAL TO FIVE PERCENT OF THE VOLUNTARY EXPENDITURE CEILING; 5) PERMIT CANDIDATES TO APPEAL TO THE PUBLIC ETHICS COMMISSION ANY REQUEST FOR REIMBURSEMENT; AND 6) REQUIRE CANDIDATES TO REPAY THE ELECTION CAMPAIGN FUND FROM ANY SURPLUS CAMPAIGN FUNDS IN AN AMOUNT NOT TO EXCEED THE PERCENTAGE THAT PUBLIC FINANCING REPRESENTS OF TOTAL CONTRIBUTIONS RECEIVED

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WHEREAS, on December 14, 1999, the City Council adopted the Limited Public Financing Act of the City of Oakland (Oakland Municipal Code Chapter 3.13) in order to provide for the limited public financing of certain campaigns for public office within the City of Oakland; and

WHEREAS, the City Council has amended the O.M.C. Chapter 3.13 from time to time; and

WHEREAS, the City Council desires to amend O.M.C. Chapter 3.13 to:

- Limit public financing for District City Council races; and
- Require candidates to decide whether to participate in the public financing program within fourteen days after the City Clerk has certified their name to appear on the ballot; and
- Continue to require candidates to agree to accept voluntary expenditure ceilings as a condition of receiving public financing; and
- Limit candidates from making contributions or loans from their personal funds to no more than 10 percent of the voluntary expenditure limit; and
- Require candidates to raise in local contributions and make in expenditures in aggregate amounts equal to five percent of the voluntary expenditure ceiling for the office being sought; and

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- Provide that public financing shall be provided solely by reimbursing candidates for certain lawful campaign expenditures; and
- 
- Require that requests for reimbursement include copies of the billing invoice, the check used to pay the invoice, and the campaign literature, print advertisement, radio or television script, or website configuration for which reimbursement is sought; and
- Permit candidates to appeal to the Commission for any request for reimbursement denied by Commission staff; and
- Require candidates to repay the Election Campaign Fund from any surplus campaign funds in an amount not to exceed the percentage that public financing represents of total contributions received, as hereinafter provided; now therefore,

**Deleted:** Provide that none of the reimbursed communications shall refer to any candidate other than the candidate seeking reimbursement; and

**THE COUNCIL OF THE CITY OF OAKLAND DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1. Amendments.** Chapter 3.13 of the Oakland Municipal Code is hereby amended to add, delete, or modify sections as set forth below (section numbers and titles are indicated in **bold type**; additions are indicated by underscoring and deletions are indicated by ~~strike through type~~; portions of the regulations not cited or not shown in underscoring or ~~strike through type~~ are not changed):

**Article I. Findings and Purpose**

**3.13.010 Title**

This Act shall be known as the "Limited Public Financing Act of the City of Oakland."

**3.13.020 Findings and Declarations**

The findings of this Act are as follows:

- A. 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.
- C. 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.

**3.13.030 Purpose of this Act**

The purpose of this act is to accomplish the objectives stated in Oakland's Campaign Reform Act as follows:

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 of Oakland, 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 reduce the pressure on candidates to raise large campaign war chests for defensive purposes, beyond the amount necessary to communicate reasonably with voters.

D. To encourage competition for elective office.

E. To allow candidates and office holders 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 important issues involved in political campaigns.

G. To help preserve public trust in governmental and electoral institutions.

## Article II. Definitions

### 3.13.040 Interpretation of this Act

Unless the term is specifically defined in this Act or the contrary is stated or clearly appears from the text, the definitions set forth in Chapter 3.12 of the Oakland Municipal Code and in Government Code sections 81000 *et seq.* as amended govern the interpretation of this Act.

For purposes of this Act, "principal residence" shall mean the place in which a person's habitation is fixed, wherein the person has the intention of remaining, and to which, whenever he or she is absent, the person has the intention of returning.

For purposes of this Act, "primary place of doing business" shall mean the street address of a corporation's or association's principal executive office as filed with the California Secretary of State or the street address of an unincorporated association's principal office as filed with the California Secretary of State.

**Deleted:** For purposes of this Act, contributions shall be "matchable contributions" only if they are: 1) the first \$100 or less of a contribution received and deposited by the candidate for the office being sought from each contributor to the candidate or the candidate's controlled committee. 2) received no more than one-hundred eighty (180) days before the date of the election, and 3) made on a financial instrument containing the name of the donor, the name of the payee and drawn on the account of the donor.

## Article III. Election Campaign Fund

### 3.13.050 Election Campaign Fund

There is hereby established an account within a special revenue fund of the City of Oakland to be known as the "Election Campaign Fund."

### 3.13.060 Appropriation of Funds

A. The Oakland City Council shall appropriate to the Election Campaign Fund, under the City's current two year budget cycle, an amount sufficient to fund all candidates eligible to receive public financing for the office of District City Councilmember,

~~Deleted: limited matching funds~~

B. The Oakland Public Ethics Commission shall provide in the form and at the time directed by the Mayor and City Administrator a written estimate of the amount necessary to be appropriated for any two-year budget cycle according to the provisions of this Act for all eligible candidates. The amount of funds to be allocated to the Election Campaign Fund shall be based on a consideration of anticipated campaign activity, anticipated administrative costs, and existing unspent funds within the account. The amount of funds to be allocated to the Election Campaign Fund shall not exceed \$500,000 for any two-year budget cycle,

~~Deleted: following City offices:~~

~~Deleted: and School Board Director. Notwithstanding this or any other provision of law, this Act shall not apply to the elected office of School Board Director until the first election after the Oakland Unified School District regains all of its rights, duties and powers upon the completion of the conditions set forth in 2005 Cal. Stats., Chapter 14, Section 5(e)~~

C. The Election Campaign Fund shall be established as an interest bearing account. Unspent funds in the Election Campaign Fund at the end of a two year budget cycle shall remain in the Fund and accrue for disbursement to candidates eligible for public financing in future elections and for administrative costs,

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D. Up to 7.5% of the amount allocated to the Election Campaign Fund pursuant to subsections 3.13.060 (a) and (b) may be utilized by the Public Ethics Commission to cover the anticipated cost of administering the provisions of this Act,

~~Deleted: , except that the allocation may exceed \$460,000 to reflect changes in the consumer price index. The Public Ethics Commission may limit the allocation of funds for any primary election to assure that sufficient funds remain available for the general election~~

### 3.13.065 Allocation of Election Campaign Fund

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No later than seven (7) days after the City Clerk has certified the names of all candidates to appear on the ballot, the Public Ethics Commission shall determine at a publicly noticed meeting whether, based on the number of potentially eligible candidates, the amount of money in the Election Campaign Fund is adequate to provide the maximum amount to potentially eligible candidates. If the Commission determines that the Election Campaign Fund will not be adequate to provide the maximum amount of funds to potentially eligible candidates, the Commission shall order the disbursement of available funds on a pro rata or other equitable basis. The Commission may at any time revise the disbursement plan consistent with these rules and prevailing law.

~~Deleted: pursuant to subsection 3.13.060(d) below. In no event shall additional allocations to the Fund be made to cause the available balance in the Fund to exceed five hundred thousand dollars (\$500,000), to include allocations made to the Public Ethics Commission pursuant to subsection 3.13.060(d) below.~~

~~Deleted: The Public Ethics Commission shall make a sufficient proportion of such funds available to the City Auditor to conduct compliance reviews as provided in section 3.13.100.~~

## Article IV. Eligibility for Public Financing

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### 3.13.070 Application and Withdrawal Procedures

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A. Each candidate for District City Council shall file a statement with the City Clerk on a form approved for such purpose indicating acceptance or rejection of the voluntary spending ceilings pursuant to Oakland Municipal Code Section 3.12.190.

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B. Each candidate for District City Council shall file with the Public Ethics Commission a Statement of Acceptance or Rejection of Public Financing on a form approved by the Public Ethics Commission no later than fourteen (14) calendar days after the date the City Clerk has certified the names of candidates to appear on the ballot for the election in which public financing will be sought. The Statement of Acceptance or Rejection of Public Financing shall advise and require that the candidate's decision to reject public financing is irrevocable for the election in which his or her name appears on the ballot. The failure to timely file a Statement of Acceptance or Rejection of Public Financing shall constitute a rejection of public financing.

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~~Deleted: A candidate who intends to accept public matching funds from the Election Campaign Fund shall sign an oath under penalty of perjury that the candidate and the candidate's controlled committee have, to the best of his or her knowledge, complied with all applicable contribution and expenditure limitations under the Oakland Campaign Reform Act and intends to comply with such contribution and expenditure limitations at all times in which the limitations apply~~

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C. If a candidate declines to accept the voluntary expenditure ceilings prescribed in Oakland Municipal Code Section 3.12.200, the candidate shall be subject to the contribution limits of Sections 3.12.050(a) and 3.12.060 (a) and shall not be eligible for public financing.

D. If a candidate agrees to accept the voluntary expenditure ceilings prescribed in Oakland Municipal Code Section 3.12.200, the candidate shall be subject to the contribution limits of Oakland Municipal Code Sections 3.12.050 (b) and 3.12.060(b) as adjusted pursuant to Sections 3.12.050(g) and 3.12.060(g), and shall be eligible for public financing upon meeting the qualification requirements as provided in this Act.

E. In the event expenditure ceilings are lifted pursuant to Oakland Municipal Code Section 3.12.220, a candidate who accepted expenditure ceilings shall be permitted to receive public financing but shall no longer be subject to expenditure ceilings.

### 3.13.080 Qualification Procedures

A candidate shall be approved to receive public financing if the candidate meets all of the following requirements:

A. The candidate has filed a timely statement of acceptance of the voluntary spending ceilings and acceptance of public financing:

B. The candidate is certified to appear on the ballot for the election for which public financing is sought:

C. The candidate has (1) received contributions in an aggregate amount of at least five (5) percent of the expenditure ceiling for the office being sought from contributors whose principal residence or whose primary place of doing business is located within the City of Oakland and which residence or business address appears on the written instrument used to make the contribution, and (2) made qualified campaign expenditures in an aggregate amount of at least five (5) percent of the expenditure ceiling for the office being sought. Contributions from the candidate's own funds shall not be counted towards meeting this five percent requirement. The candidate shall provide copies of the contribution checks received and records of payments made to meet the five percent eligibility requirements.

D. The candidate is opposed by another candidate for the same office:

E. The candidate agrees to all conditions and requirements of this Act and to submit to any reasonable audit deemed appropriate by the Public Ethics Commission or other civil authorities:

F. The candidate or his or her campaign treasurer or designee attends a training program conducted or sponsored by the Public Ethics Commission:

G. The candidate has filed, and completely and accurately executed, all pre-election campaign statements that are due at the time public financing is payable. All candidates receiving public financing shall timely file, and completely and accurately execute, all post-election campaign statements for each election in which they received public financing.

### 3.13.090 Use of Personal Funds

A candidate who accepts public financing shall not receive contributions or loans from the candidate's own funds which aggregate total exceeds ten (10) percent of the voluntary

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- Deleted: in Oakland Municipal Code Section 3.12.200 shall not change the decision, unless an opposing candidate files a statement of rejection, or as otherwise provided in Oakland Municipal Code Section 3.12.220. In the event an opposing candidate files a statement of rejection, any candidate for the same office may rescind his or her acceptance within 10 calendar days of the deadline for filing nomination papers, provided that the candidate has not accepted any contributions in amounts greater than the limitations set forth in Oakland Municipal Code Section 3.12.050 (a) and 3.12.060(a). Any candidate rescinding his or her acceptance of the expenditure ceilings shall not be eligible for public matching funds. In the event ... [1]
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expenditure ceiling for the office being sought. If the voluntary expenditure ceilings for the office being sought are lifted, this provision shall not apply.

**Article V. Disbursement of Public Financing.**

**3.13.100 Duties of the Public Ethics Commission and Office of the City Auditor**

A. The Public Ethics Commission shall develop any and all forms necessary to carry out the provisions of the Act. The Public Ethics Commission may, in its discretion, require any document or form to be filed in an electronic format that is provided by the Public Ethics Commission to the candidates free of charge.

B. The Public Ethics Commission shall review records submitted to determine a candidate's eligibility to receive public financing and requests for reimbursement promptly. For any candidate determined not to be eligible for public financing, the Commission or its designee shall inform the candidate of the reasons why the candidate is not eligible and what actions, if any, the candidate may take to correct any insufficiencies.

C. The City Auditor shall conduct mandatory post-election audits of all candidates accepting public financing. The City Auditor may choose to limit the scope of any audit to the items submitted for reimbursement. The audit report shall be a public record and provided to the Public Ethics Commission. The City Auditor shall conduct all audits in accordance with Generally Accepted Government Auditing Standards.

**3.13.110 Matching Fund Formula Requests for Public Financing**

A. Public financing pursuant to this Act shall be provided solely by reimbursing eligible candidates for certain qualified campaign expenditures lawfully made by the candidate and his or her campaign committee.

B. The qualified campaign expenditures eligible for reimbursement are:

1. candidate filing and ballot fees;
2. printed campaign literature and production costs;
3. postage;
4. print advertisements;
5. radio airtime and production costs;
6. television or cable airtime and production costs; and
7. website design and maintenance costs.

C. The following conditions and restrictions shall apply to any request for reimbursement:

1. All requests for reimbursement shall be made on a form authorized by the Public Ethics Commission and shall include: (a) a copy of the billing invoice for which

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**Deleted:** The certification of a candidate's eligibility for public matching funds shall provide the reasons why a candidate is or is not eligible, the amount of the public matching funds disbursed, and what actions a candidate may take to correct any insufficiencies. D.

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**Deleted:** matching funds. Audits or compliance reviews shall be conducted of other candidates only when necessary to determine if compliance with the eligibility requirements of section 3.13.080(d) were met. The results of any audit(s) or compliance review(s) conducted

**Deleted:** The City Auditor shall propose administrative standards for conducting audits and compliance reviews consistent with the requirements of this Act to be duly approved by resolution of the City Council. In the event a candidate who accepts matching funds during a primary election is required to participate in a run-off election, no audit of such candidate shall commence sooner than sixty (60) calendar days after the run-off election.

**Deleted:** A certified candidate shall receive public matching funds according to the following formula: One dollar of public matching funds for each dollar received and deposited of the first \$100 or less contributed by each contributor provided that the contribution is made by contributors whose principal residence or whose primary place of doing business is located within the City of Oakland and which residence or business address appears on the written instrument used to make the contribution. The address appearing on the written instrument shall be presumed to be the contributor's principal residence or primary place of business. [6]

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reimbursement is sought: (b) a copy of the check(s) by which the candidate's campaign committee made payment on the billing invoice; and (c) a copy, when applicable, of the campaign literature, advertisement, radio or television script, or website configuration.

2. All requests for reimbursement shall include a sworn declaration by the candidate and his or her campaign treasurer that (a) the check(s) used to make payment on the billing invoice represents payment in full of the billing invoice submitted for reimbursement and that sufficient funds exist in the campaign account to provide payment and (b) any money received from the Election Campaign Fund has not been previously earmarked or specifically encumbered to pay or to secure payment of any loan, return of contribution or of any expenditure other than the one for which reimbursement was sought.

D. Any decision made by the Executive Director to deny a request for reimbursement may be appealed to the Commission whose decision shall be final. A request to agendaize an appeal of the Executive Director's decision shall be made in writing and delivered to the Office of the Public Ethics Commission no more than ten (10) calendar days after receiving written notice of the Executive Director's decision.

E. The total amount of public financing allocated to each candidate shall not exceed thirty (30) percent of the voluntary expenditure ceiling per election for the office being sought.

### 3.12.120 Disbursement and Deposit of Public Financing

A. A candidate or candidate's controlled committee, certified as eligible to receive public financing, shall submit requests for reimbursement to the Public Ethics Commission in minimum increments of \$1,000 or more.

B. A candidate or candidate's controlled committee, certified as eligible to receive public financing may submit requests for reimbursement in minimum increments of \$500 or more ten (10) calendar days before the election.

C. The Public Ethics Commission or its designee shall have ten (10) calendar days to cause the review and approval or denial of the request for reimbursement and disburse funds from the Election Campaign Fund to the candidate or candidate's controlled committee.

D. All funds disbursed from the Election Campaign Fund shall be made payable to the candidate's controlled committee and shall be deposited directly into the candidate's campaign checking account within three (3) business days of receipt.

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### 3.13.140 Deleted 3.13.150 Return of Surplus Funds

A. Surplus campaign funds remaining at the end of the post-election reporting period following the election for which public financing was received shall be returned to the Election Campaign Fund no later than thirty-one (31) calendar days from the last day of the semi-annual reporting period following the election in an amount specified by this section. A candidate shall not be required to return any surplus funds in an amount greater than the amount of public financing received. The amount of surplus campaign funds to be returned to the Election Campaign Fund shall be calculated by multiplying the amount of surplus campaign funds by the percentage that total public financing received represents of total monetary contributions received for the election period.

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C. In no event shall the Public Ethics Commission match a contribution which it has determined to be aggregated with a previously matched contribution from another person pursuant to Section 3.12.080. ¶
D. Upon certification of a candidate's eligibility, the candidate shall receive an initial lump-sum payment representing ten percent of the total amount of available matching funds for which he or she is allocated to receive. An eligible candidate shall receive a second lump-sum payment in an amount equal to the initial lump-sum payment upon demonstration that he or she has received and deposited contributions totaling at least ten percent of the expenditure ceiling for the office being sought and which contributions originate from donors whose principal residence or primary place of doing business is ... [8]
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B. For purposes of this Act, campaign funds shall be considered "surplus" campaign funds to the extent that the total amount of contributions (excluding the receipt of public financing) exceed the total financial obligations of the candidate's campaign committee (excluding unlawful or non-qualified campaign expenditures) as of the last day of the semi-annual reporting period following the election. A financial obligation includes 1) accounts payable billed, or, 2) accounts payable for which bills may be expected, for goods or services received during the election.

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C. Public financing shall not be disbursed to the certified candidate from the Election Campaign Fund following the day of the election or the candidate's withdrawal from the election, whichever occurs first, except that public financing may be disbursed to a certified candidate after the date of the election or withdrawal provided that the candidate submitted a properly documented request for reimbursement before the date of the election or the date of withdrawal from the election.

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~~3.13.160~~ **3.13.170 Public Debates**

While not a condition for receiving public financing, candidates receiving public financing are strongly encouraged to participate in one or more nonpartisan candidate debates for each election.

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A. . Each certified candidate or candidate's controlled committee which received public matching funds shall provide to the Public Ethics Commission sufficient proof of all disbursements made from matching funds no later than the due date for the next campaign finance report. ¶  
B. . The Public Ethics Commission shall determine what constitutes sufficient proof of payment. ¶  
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**3.13.180 Enforcement**

The Public Ethics Commission is the sole body for civil enforcement of this Act. In the event criminal violations of the Act come to the attention of the Public Ethics Commission, the Commission shall promptly advise in writing the City Attorney and the appropriate prosecuting enforcement agency.

**3.13.190 Criminal Misdemeanor Actions**

Any person who knowingly or willfully 1) misrepresents his or her eligibility for public financing, 2) makes a material misrepresentation in connection with a request for reimbursement, or 3) causes, aids or abets any other person to violate the provisions of this Act, is guilty of a misdemeanor. Prosecution shall be commenced within four (4) years after the date on which the violation occurred.

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**3.13.200 Enforcement Actions**

A. Any person who intentionally or negligently 1) misrepresents his or her eligibility for public financing, 2) makes a material misrepresentation in connection with a request for reimbursement, or 3) causes, aids or abets any other person to violate the provisions of this Act, is subject to enforcement proceedings before the Public Ethics Commission pursuant to the Public Ethics Commission General Rules of Procedure.

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B. If two or more persons are responsible for any violation, they shall be jointly and severally liable.

C. Any person alleging a violation of this Act shall first file with the Public Ethics Commission a written complaint on a form approved for such purpose. The complaint shall contain a statement of the grounds for believing a violation has occurred. The Public Ethics



Commission shall review, investigate and make determinations regarding any alleged violation consistent with the Public Ethics Commission's General Complaint Procedures.

D. The Commission has full authority to settle any action involving public financing in the interest of justice.

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E. If the Commission determines a violation has occurred, the Commission is hereby authorized to administer appropriate penalties and fines not to exceed \$1,000 per violation and to order the repayment of public financing received or expended in violation of law.

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F. The Public Ethics Commission may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this Act.

G. No complaint alleging a violation of any provision of this Act shall be filed more than four (4) years after the date the violation occurred.

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**3.13.220 Construction**

The Act shall be liberally construed to accomplish its purposes.

**3.13.230 Applicability of Other Laws**

Nothing in this Act shall exempt any person from applicable provisions of any other laws of the city, state or other appropriate jurisdiction.

**3.13.240 Severability**

If any provision of this Act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Act to the extent it can be given effect, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this Act are severable.

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**SECTION 2. Severability.** If any article, section, subsection sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional, the offending portion shall be severed and shall not affect the validity of remaining portions which shall remain in full force and effect.

**SECTION 3. Effective Date.** This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

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The effective date of this Act shall be January 1, 2001. §

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Municipal Elections

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Chapter 3.13 of this code (Sections 3.13.010 - 3.13.260 inclusive) shall have no effect for the 2004 general and runoff municipal elections. §

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2010

**PASSED BY THE FOLLOWING VOTE:**

AYES – BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT BRUNNER

NOES –

ABSENT –

ABSTENTION –

ATTEST: \_\_\_\_\_

LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California

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**Author**

in Oakland Municipal Code Section 3.12.200 shall not change the decision, unless an opposing candidate files a statement of rejection, or as otherwise provided in Oakland Municipal Code Section 3.12.220. In the event an opposing candidate files a statement of rejection, any candidate for the same office may rescind his or her acceptance within 10 calendar days of the deadline for filing nomination papers, provided that the candidate has not accepted any contributions in amounts greater than the limitations set forth in Oakland Municipal Code Section 3.12.050 (a) and 3.12.060(a). Any candidate rescinding his or her acceptance of the expenditure ceilings shall not be eligible for public matching funds. In the event expenditures ceilings

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who has qualified for matching funds, or the candidate is opposed by another candidate for the same office who has received contributions or made expenditures or has cash on hand in an amount of at least 7 percent of the voluntary expenditure ceiling for that office.

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the use of public funds set forth in the

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. The Public Ethics Commission shall conduct or sponsor at least three training programs before the nomination period closes in any general municipal election.

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**Author**

Unless the voluntary expenditure ceilings are lifted in accordance with Oakland Municipal Code Section 3.12.220, a

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**Author**

A certified candidate shall receive public matching funds according to the following formula: One dollar of public matching funds for each dollar received and deposited of the first \$100 or less contributed by each contributor provided that the contribution is made by contributors whose principal residence or whose primary place of doing business is located within the City of Oakland and which residence or business address appears on the written instrument used to make the contribution. The address appearing on the written instrument shall be presumed to be the contributor's principal residence or primary place of doing business. No complaint shall be filed with the Public Ethics Commission unless accompanied by evidence that demonstrates a high probability that the presumption is incorrect.

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1. No communication specified in Section 3.13.110(B) shall identify or refer to any candidate other than the candidate seeking reimbursement.

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**Author**

C. In no event shall the Public Ethics Commission match a contribution which it has determined to be aggregated with a previously matched contribution from another person pursuant to Section 3.12.080.

D. Upon certification of a candidate's eligibility, the candidate shall receive an initial lump-sum payment representing ten percent of the total amount of available matching funds for which he or she is allocated to receive. An eligible candidate shall receive a second lump-sum payment in an amount equal to the initial lump-sum payment upon demonstration that he or she has received and deposited contributions totaling at least ten percent of the expenditure ceiling for the office being sought and which contributions originate from donors whose principal residence or primary place of doing business is located within the City of Oakland. Any lump-sum payment made pursuant to this section shall be inclusive of, and shall not cause a candidate to exceed, the total amount of available matching funds he or she is allocated to receive.

E. Each candidate who qualifies for a run-off election shall receive a payment equal to the amount he or she received pursuant to Section 3.13.110(D). No other matching funds shall be available to a run-off candidate.

F. In the event matching funds are paid to a candidate based on a contribution that is returned to the donor for any reason, the candidate shall return to the Public Ethics Commission the amount received in matching funds based on the returned contribution no later than seven (7) business days after the contribution is returned to the donor.

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———The request for public matching funds shall be made on a form determined by the Commission, and shall include copies of each check eligible to be matched by public funds.

### **3.13.130 Deposit of Public Funds**

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**Author**

Public matching funds may only be used for lawful qualified campaign expenditures incurred by a candidate during the election for which the funds were allocated.

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**Author**

Public matching funds provided by this Act remain the property of the City until disbursed or encumbered for lawful qualified campaign expenditures.

B. Unencumbered matching funds must be

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**Author**

Any unencumbered campaign funds remaining as of the last day of the semi-annual reporting period following the election, or the candidate's withdrawal from the election, shall be considered unencumbered matching funds to be returned to the Election

Campaign Fund, up to the amount of matching funds received for that election by the candidate

**DRAFT**

2010 JUL 21 PM 3:19

City Attorney

AN ORDINANCE AMENDING CHAPTER 3.13 OF THE OAKLAND MUNICIPAL CODE (AKA "THE LIMITED PUBLIC FINANCING ACT OF THE CITY OF OAKLAND") TO 1) LIMIT ELIGIBILITY TO CANDIDATES FOR DISTRICT CITY COUNCIL; 2) PROVIDE THAT PUBLIC FINANCING BE LIMITED TO THE REIMBURSEMENT OF SPECIFIED CAMPAIGN EXPENDITURES; 3) LIMIT CANDIDATES FROM MAKING CONTRIBUTIONS OR LOANS FROM PERSONAL FUNDS TO TEN PERCENT OF THE VOLUNTARY EXPENDITURE CEILING; 4) REQUIRE CANDIDATES TO RAISE IN LOCAL CONTRIBUTIONS AND MAKE IN CAMPAIGN EXPENDITURES AN AMOUNT EQUAL TO FIVE PERCENT OF THE VOLUNTARY EXPENDITURE CEILING; 5) PERMIT CANDIDATES TO APPEAL TO THE PUBLIC ETHICS COMMISSION ANY REQUEST FOR REIMBURSEMENT; AND 6) REQUIRE CANDIDATES TO REPAY THE ELECTION CAMPAIGN FUND FROM ANY SURPLUS CAMPAIGN FUNDS IN AN AMOUNT NOT TO EXCEED THE PERCENTAGE THAT PUBLIC FINANCING REPRESENTS OF TOTAL CONTRIBUTIONS RECEIVED

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NOTICE AND DIGEST

The proposed amendments would amend the LPFA to (1) Limit public financing for district City Council candidates (candidates for the Oakland School Board of Directors would no longer be funded); (2) Require candidates to decide whether to participate in the public financing program within fourteen days after the City Clerk has certified their name to appear on the ballot; (3) Continue to require candidates to agree to accept voluntary expenditure ceilings as a condition of receiving public financing; (4) Limit candidates from making contributions or loans from their personal funds to no more than 10 percent of the voluntary expenditure limit (current limit is 5 percent); (5) Require candidates to receive contributions and to make qualified campaign expenditures in respective aggregate amounts totalling 5 percent of the voluntary expenditure ceiling for the office being sought; (6) Provide that public financing shall be provided solely by reimbursing candidates for certain lawful campaign expenditures; (7) Require that requests for reimbursement include copies of the billing invoice, the check used to pay the invoice, and the campaign literature, print advertisement, radio or television script, or website configuration for which reimbursement is sought; (8) Permit candidates to appeal to the Commission for any request for reimbursement denied by Commission staff; and (9) Require candidates to repay the Election Campaign Fund from any surplus campaign funds in an amount not to exceed the percentage that public financing represents of total contributions received.

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Deleted: a candidate must raise as a condition of eligibility from

Deleted: to 3 percent; (

Deleted: Provide that none of the reimbursed communications shall refer to any candidate other than the candidate seeking reimbursement; (8)

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