

Item No. 5

“To Be Delivered” Material

For

City of Sacramento

City Council

Financing Authority

Housing Authority

Redevelopment Agency

Agenda Packet

For the Meeting of: March 31, 2009

The attached materials were not available at the time the Agenda Packet was prepared.

Title: Ordinance Amendment: Ordinance Amending and Repealing Various Sections of Title 2 of the Sacramento City Code Relating to the City's Campaign Chapters (Contributions and Spending)

Contact Information: Mark Prestwich, Special Projects Manager, (916) 808-5380, Office of the City Manager.

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REPORT TO COUNCIL

City of Sacramento

915 I Street, Sacramento, CA 95814-2604
www.CityofSacramento.org

Staff Report
March 31, 2009

Honorable Mayor and
Members of the City Council

Title: Ordinance Amending and Repealing Various Sections of Title 2 of the Sacramento City Code Relating to the City's Campaign Chapters (Contributions and Spending)

Location/Council District: Citywide

Recommendation: 1) Review an **Ordinance** amending Sacramento City Code Sections 2.13.050, 2.13.065, 2.13.080, 2.13.085, 2.13.120 and repealing Chapter 2.14; 2) pass for publication the Ordinance title as required by Sacramento City Charter 32 to be adopted April 7, 2009

Contact: Patti Bisharat, Director of Governmental Relations, (916) 808-8197
Rich Archibald, Assistant City Attorney, (916) 808-5346

Presenters: Not applicable

Department: City Manager's Office/City Attorney's Office

Division: Not applicable

Organization No: 02001011

Description/Analysis

Issue: The legality of the City's Contribution Limits Code relating to contributions made to independent expenditures committees has been called into question in a series of court decisions involving ordinances of other California jurisdictions (including the cities of Oakland, San Jose and San Francisco). The independent expenditure committee contribution limits in these cities were held to be unconstitutional restrictions on expenditures.

The proposed ordinance will repeal the City's contribution limits for independent expenditure committees, modify the remaining campaign contribution limits and their adjustment process, and repeal the Campaign Reform Fund.

Policy Considerations:

Repeal of contribution limits for contributions to independent expenditure committees will reduce the potential of legal challenges against the City. It also allows the Council (if legal challenges are resolved in favor of limits) to re-enact

limits, if desired, to:

- a. Control the timing to be coordinated with election periods
- b. Modify the language, if necessary, to conform with final court rulings
- c. Adjust the limits at a time determined to be appropriate

The amendment of Section 2.13.050, 2.13.065, 2.13.080, and 2.13.085 will increase candidate campaign contribution limits for candidates to offset the unlimited fundraising ability of independent expenditure committees.

The amendment of Section 2.13.120 will extend by 30 days the time in which City Clerk provides the Council with recommended cost of living adjustments to the contribution limits. The current deadline of March 1 does not provide the City Clerk's Office with adequate time to prepare the necessary adjustments because of the timing of data provided by the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U).

Repeal of Chapter 2.14 (Campaign Reform Fund) removes a provision of City Code for public financing of campaigns that has been ineffective, difficult to administer and understand, and utilized only once in the three election cycles it has been in place.

Environmental Considerations: Not applicable.

Commission/Committee Action: On January 20, 2009, the Law and Legislation Committee discussed proposed changes to the City's Campaign Reform Codes related to contributions to independent expenditure committees. At the meeting, the Committee expressed an interest in considering potential repeal of Section 2.13.050(D) in conjunction with potential modifications to the City's campaign contribution limits. At the March 17, 2009 Law and Legislation Committee meeting, the Committee adopted a motion to draft an ordinance(s) to repeal or suspend contributions to independent expenditure committees and public financing of campaigns, and modify campaign contribution limits.

Sustainability Considerations: Not applicable.

Rationale for Recommendation: The repeal of contribution limits for independent expenditure committees reduces the City's legal exposure. Since the removal of these limits will allow independent expenditure committees to raise as much funding as they wish or are able to, staff is recommending candidate contribution limits be increased to help offset this potential competitive disadvantage. Finally, repealing Chapter 2.14 will end General Fund appropriations to fund candidate election expenditures, a process that has been ineffective, proved administratively complex, and used by only one candidate in the three election cycles since the ordinance was adopted.

Financial Considerations: The repeal of Chapter 2.14 will eliminate General Fund appropriations for candidate expenditures. The City has appropriated up to \$300,000 of General Fund money during recently election cycles to fund candidate election

expenditures.

Emerging Small Business Development (ESBD): Not applicable.

Respectfully Submitted by: M. J. Kerridge
for Patti Bisharat, Director of Government Affairs

Approved by: [Signature]
for Rich Archibald, Assistant City Attorney

Recommendation Approved:

for M. J. Kerridge
Ray Kerridge, City Manager

Table of Contents:

	Report	Pg 1
Attachments		
1	Background	Pg 4
2	Proposed Ordinance	Pg 7
3	Summary of Changes	Pg 11
4	Chapter 2.14	Pg 12

Background

On January 20, 2009, staff presented a report to the City's Law and Legislation Committee recommending repeal of the City's limits on contributions that persons make to independent expenditure committees. Independent expenditure committees make contributions to candidates for city elective office, or make contributions for or against a candidate for city elective office. Subsection D of Section 2.13.050 of the City Code provides, in part:

- D. Contributions to Committees. No person shall make to any committee which contributes to any candidate for city elective office or makes expenditures for or against any candidate for city elective office, and no such committee shall accept from any person a contribution or contributions totaling more than nine hundred dollars (\$900.00) in a calendar year; and no large political committee shall make to any committee which contributes to any candidate for city elective office or makes expenditures for or against any candidate for city elective office, and no such committee shall accept from any large political committee a contribution or contributions totaling more than three thousand five hundred dollars (\$3,500.00) in a calendar year. The provisions of this subsection shall not apply to contributions to candidates and candidate-controlled committees, which shall be subject to the limits set forth in subsections A and B of this section.

Section 2.13.050, adopted in 2000 (Ord. No. 2000-048), was patterned after a similar provision in the campaign code for the City and County of San Francisco. The San Francisco provision was successfully challenged in the United States District Court for the Northern District of California, in a decision issued in late 2007. The court found that the limits on contributions to independent expenditure committees served as both contribution limits as well as expenditure limits; that for expenditure limits to be upheld, there had to be a showing of a compelling reason, or compelling governmental interest, for their enactment, and also a showing of no less restrictive alternative; and that the ordinance was not supported by a compelling governmental interest and was not the least restrictive alternative. See Comm.On Jobs Candidate Advocacy Fund v. Herrera, 2007 U.S. Dist. LEXIS 73736 (N.D. Cal. 2007). The case is currently pending before the Ninth Circuit.

Several other jurisdictions have had similar limits on contributions to independent expenditure committees struck down on constitutional grounds. These include the California cities of Irvine [Lincoln Club v. City of Irvine, 292 F.3d 934 (9th Cir. 2002)]; Oakland [Oakpac v. City of Oakland, 2006 U.S. Dist. LEXIS 96900 (2006)]; and San Jose [San Jose Silicon Valley Chamber of Commerce Political Action Comm. v. City of San Jose, 2006 U.S. Dist. LEXIS 94338 (N.D. Cal. Sept. 2006), vacated and remanded by 2008 546 F.3d 1087 (Oct. 2008) (reversed on *Younger* abstention grounds, and not on substantive grounds)]. In the Oakland decision, the court also called into question the contribution limits for independent expenditure committees as an impermissible content-based restriction.

The issue of contribution limits for contributions to independent expenditure committees has arisen in other jurisdictions, and they have been held invalid in a number of decisions.

See e.g., N.C. Right to Life, Inc. v. Leake, 525 F.3d 274 (4th Cir. 2008); Arkansas Right to Life State PAC v. Butler, 29 F.Supp.2d 540 (W.D. Ark. 1998). It is not clear when the Ninth Circuit will address the issue of the constitutionality of the independent expenditure committee contribution limits at issue in the case involving San Francisco (as well as other cities).

The City's limits were called into question by attorneys representing independent expenditure committees interested in making independent expenditures in the most recent mayoral race, and the attorneys cited the adverse decisions in San Jose and other cases. This issue was raised during the final weeks of the mayoral race, and it is the understanding of the City's Attorney's Office that the inquiries were made to the City Clerk by attorneys representing two independent expenditure committees, one supporting former Mayor Fargo, and one supporting current Mayor Johnson. Based on consultation with and advice from the City Attorney's Office, the Clerk advised the attorneys that the City would not be enforcing its contribution limits during the last few weeks of the mayoral race. The full Council was apprised of this advice at the same time as, or prior to, the advice was conveyed to the Clerk and thereafter to the committee representatives. If the City had not taken this step, the provision would likely have been challenged in court, and a successful challenge would have resulted in significant attorneys' fees awarded to the challengers.

At the January 20, 2009, Law and Legislation Committee meeting, the Committee expressed interest in considering potential changes to the independent expenditure committees in conjunction with potential modifications to the City's campaign contribution limits. Accordingly, staff provided a report back to the Committee at its March 17, 2009, meeting and provided data on contribution limits in other large California cities, and at the state and federal level.

In other large California cities, contribution limits for local elective office range from \$100 to \$3,600 for individuals and \$100 to \$7,200 for committees. Like Sacramento, some agencies link their limits to an index that provides for periodic adjustment of their contribution limits. Contribution limits for positions in the California State Legislature (e.g., Assembly and Senate) are currently \$3,900 for individuals and \$7,800 for committees; and contribution limits for statewide office other than Governor are currently \$6,500 for individuals and \$12,900 for committees. Contribution limits for candidates for Governor are much higher. The contribution limits for federal elective office are more complicated. Generally, individuals may contribute \$2,400 per election per candidate, while committees may contribute \$2,400 or \$5,000, depending on the type of committee.

After lengthy conversation at the March 17, 2009, Law and Legislation Committee meeting, the Committee directed staff to draft an ordinance for Council consideration that accomplished the following:

- Reduced City legal exposure by repeal or suspension of contribution limits for independent expenditure committees
- Raised candidate contribution limits as recommended by the Committee to help offset the potential competitive disadvantage associated with the removal of contribution limits for independent expenditure committees

- Repealed or suspended Chapter 2.14 (Campaign Reform Fund) that has been utilized only once in the three election cycles it has been in place and which will end General Fund appropriations for candidate expenditures.

The proposed ordinance is consistent with the Committee's direction as noted above. The ordinance also extends by 30 days the time in which City Clerk provides the Council with recommended cost of living adjustments to the contribution limits. The time extension is recommended because the release date for Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U) data does not provide adequate time for the City Clerk's Office to prepare the necessary adjustments. The proposed ordinance also provides additional flexibility to the City Council to adjust contribution limits at any point in time.

The City Attorney's Office recommends repeal of contribution limits for contributions to independent expenditure committees, rather than Suspension, because it allows the Council to control the timing to be coordinated with election periods if the multiple legal challenges are ultimately resolved in favor of limits. Repeal also provides the Council with the ability to modify the language, if necessary, to conform to final court rulings and adjust the limits at a time determined to be appropriate. Repeal (versus suspension) of public financing of campaigns is recommended in order to be consistent with the repeal of contribution limits for independent expenditure committees. Additionally, since its adoption nine years ago, the public financing Code has been ineffective, difficult to administer and understand, has been utilized only once; this resulted in an audit investigation and subsequent findings. The City has appropriated up to \$300,000 of General Fund dollars to fund candidate expenditures in past election cycles which today becomes more difficult given the City's budget challenges. Repeal does not preclude the Council, if desired, from re-enacting public financing when the budget environment improves and developing an updated, more effective ordinance at that time.

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

**AMENDING SECTIONS 2.13.050, 2.13.065, 2.13.080, 2.13.085,
AND 2.13.120 AND REPEALING CHAPTER 2.14 OF
THE SACRAMENTO CITY CODE RELATING TO
CAMPAIGN CONTRIBUTION AND SPENDING LIMITS AND
PUBLIC FUNDING OF CAMPAIGNS**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1. Section 2.13.050 of the Sacramento City Code is amended as follows:

A. Subsection A of Section 2.13.050 is amended to read as follows:

A. Council Members. Contributions to candidates for the office of city council member shall be subject to the following limitations in addition to the limitations established by Article 3 of Chapter 5 of the Political Reform Act (Government Code Sections 85301—85307):

1. Contributions by Persons. No person shall make, and no candidate for the office of city council member, or a controlled committee of such candidate, or person acting by or on behalf of such candidate or such candidate's controlled committee shall accept any contribution which would cause the total amount contributed by that person to the candidate, or to the candidate's controlled committee, to exceed two thousand dollars (\$2,000.00) in any of the following periods: a primary election period; a general election period; or a special election period; provided that, to the extent the Political Reform Act establishes a lower limit for special elections, the lower limit shall apply.

2. Contributions by Large Political Committees. No large political committee shall make, and no candidate for the office of city council member, or a controlled committee of such controlled committee, or person acting by or on behalf of such candidate or such candidate's controlled committee shall accept, any contribution which would cause the total amount contributed by that large political committee to the candidate, or to the candidate's controlled committee, to exceed five thousand dollars (5,000.00) in any of the following periods: a primary election period; a general election period; or a special election period; provided that, to the extent the Political Reform Act establishes a lower limit for special elections, the lower limit shall apply.

B. Subsection B of Section 2.13.050 is amended to read as follows:

B. Mayor. Contributions to candidates for the office of mayor shall be subject to the following limitations in addition to the limitations established by Article 3 of Chapter 5 of the Political Reform Act (Government Code Sections 85300—85307):

1. Contributions by Persons. No person shall make, and no candidate for the office of mayor, or a controlled committee of such candidate, or person acting by or on behalf of such candidate or such candidate's controlled committee, shall accept into the candidate's campaign contribution account, any contribution which would cause the total amount contributed by that person to the candidate, or to the candidate's controlled committee to exceed four thousand dollars (\$4,000.00) in any of the following periods: a primary election period; a general election period; or a special election period; provided that, to the extent the Political Reform Act establishes a lower limit for special elections, the lower limit shall apply.

2. Contributions by Large Political Committees. No large political committee shall make, and no candidate for the office of mayor, or a controlled committee of the candidate or such candidate's controlled committee, or person acting by or on behalf of such candidate or such candidate's controlled committee shall accept, any contribution which would cause the total amount contributed by that large political committee to the candidate, or to the candidate's controlled committee, to exceed ten thousand dollars (\$10,000.00) in any of the following periods: a primary election period; a general election period; or a special election period; provided that, to the extent the Political Reform Act establishes a lower limit for special elections, the lower limit shall apply.

C. Subsection D of Section 2.13.050 is amended to read as follows:

~~D. Reserved. Contributions to Committees. No person shall make to any committee which contributes to any candidate for city elective office or makes expenditures for or against any candidate for city elective office, and no such committee shall accept from any person a contribution or contributions totaling more than nine hundred dollars (\$900.00) in a calendar year; and no large political committee shall make to any committee which contributes to any candidate for city elective office or makes expenditures for or against any candidate for city elective office, and no such committee shall accept from any large political committee a contribution or contributions totaling more than three thousand five hundred dollars (\$3,500.00) in a calendar year. The provisions of this subsection shall not apply to contributions to candidates and candidate-controlled committees, which shall be subject to the limits set forth in subsections A and B of this section.~~

~~Exception. A committee may solicit and accept contributions in excess of the limits established by subsection 1 above if the committee makes expenditures for any lawful purpose other than supporting or opposing candidates for city elective office, provided that:~~

~~1. Funds received from contributions in excess of the limits set forth in subsection 1 above are used only for lawful purposes other than supporting or opposing candidates for city elective office or making contributions to candidates for city elective office; and~~

~~2. The committee shall establish a separate bank account to be used for making expenditures to support or oppose candidates for city elective office or for making contributions to candidates for city elective office. All expenditures to support or oppose candidates for city elective office and all contributions made by the committee to candidates for city elective office must be made with funds from this account. A committee may not deposit into this account any contributions that were solicited or accepted in excess of the limitations established by subsection 1 above.~~

D. Except as specifically amended by the amendments to subsections A, B, and D, Section 2.13.050 shall remain unchanged and in full force and effect.

SECTION 2. Section 2.13.065 of the Sacramento City Code is amended to read as follows:

2.13.065 Written solicitations by candidates.

Any candidate or controlled committee of a candidate making a written solicitation for a contribution to the candidate's campaign for city elective office shall include one of the following written notices in no less than ten-point type on each solicitation.

A. Candidate for City Council Position. A candidate or controlled committee of a candidate for a city council position other than mayor shall provide the following written notice:

NOTICE

Chapter 2.13 of the Sacramento City Code limits the amounts that a contributor may give to a candidate for a City Council position for a primary, general or special election. Generally, a contributor other than a large political committee may not give more than \$2,000 to a candidate for a City Council position for a primary, general or special election, while a large political committee may not give more than \$5,000 to a candidate for City Council for a primary, general or special election. Chapter 2.13 contains certain other rules that may affect the amounts that an individual contributor may give. Please read Chapter 2.13 before making a contribution to my campaign.

B. Candidate for Mayoral Position. A candidate or controlled committee of a candidate for mayor shall provide the following written notice:

NOTICE

Chapter 2.13 of the Sacramento City Code limits the amounts that a contributor may give to a candidate for Mayor for a primary, general or special election. Generally, a contributor other than a large committee may not give more than \$4,000 to a candidate for Mayor for a primary, general or special election, while a large political committee may not give more than \$10,000 to a candidate for Mayor for a primary, general or special election. Chapter 2.13 contains certain other rules that may affect the amounts that an individual contributor may give. Please read Chapter 2.13 before making a contribution to my campaign.

SECTION 3. Subsection A of Section 2.13.080 of the Sacramento City Code is amended to read as follows:

A. Aggregate Limits.

1. Except as provided in subsection (A)(2) of this section, the following aggregate off-election year contribution limits shall apply:

a. No councilmember or candidate for the city office of councilmember shall accept contributions totaling more than twenty-five thousand dollars (\$25,000.00) in any single off-election year.

b. No mayor or candidate for the city office of mayor shall accept contributions totaling more than fifty thousand dollars (\$50,000.00) in any single off-election year.

SECTION 4. Subsections E of Section 2.13.085 of the Sacramento City Code is amended to read as follows:

E. No person (other than the officer or candidate) shall make, and no legal expense fund committee for an elective city officer or candidate for elective city office shall solicit or accept, contributions from any person to a legal defense fund totaling more than one thousand dollars (\$1,000.00).

SECTION 5. Section 2.13.120 of the Sacramento City Code is amended to read as follows:

2.13.120 Periodic review.

A. The contribution limits set forth in this chapter shall be adjusted in the first quarter of every odd-numbered year to reflect any increase or decrease in the cost of living over the previous two-year period, as shown by the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U). Such adjustments shall be rounded off to the nearest fifty dollars (\$50.00). No later than March 31st of each odd-numbered year, the city clerk shall bring forth to the city council an ordinance amending the contribution limit amounts stated in this chapter to reflect the increase or decrease in the CPI-U pursuant to this section.

B. In addition to, or in lieu of, the cost of living adjustments provided for in subsection A, above, the city council may adjust the contribution limits set forth in this chapter at any time and in the amounts that it determines to be appropriate by adoption of an ordinance amending this chapter.

SECTION 6. Chapter 2.14 of the Sacramento City Code is repealed.

Summary of Changes

ATTACHMENT 3

Limit Type	Chapter	To: Office / From: Contributor Type	Original Limits	1 st Amended Limits	2 nd Amended Limits	2009 Proposed Limits
Campaign Contributions	Chapter 2.13 (rounded to nearest \$50)	Councilmember: Person Large Political Committee	750 3,000	800 3,300	900 3,500	2,000 5,000
Campaign Contributions	Chapter 2.13 (rounded to nearest \$50)	Mayor: Person Large Political Committee	1,000 5,000	1,100 5,500	1,150 5,850	4,000 10,000
Campaign Contributions	Chapter 2.13 (rounded to nearest \$50)	Committee: Person Large Political Committee	750 3,000	800 3,300	900 3,500	Repeal 5,000

Limit Type	Chapter	Office	Original Limits	1 st Amended Limits	2 nd Amended Limits	2009 Proposed Limits
Aggregate Off- Year Contributions	Chapter 2.13 (rounded to the nearest \$50)	Councilmember Mayor	15,000 30,000	16,450 32,900	17,550 35,150	25,000 50,000
Legal Defense Fund Contributions	Chapter 2.13 (rounded to nearest \$50)	Councilmember and Mayor	750	800	900	1,000
Campaign Spending Limits	Chapter 2.14 (rounded to the nearest \$1,000)	Councilmember Mayor	75,000 500,000	77,000 514,000	82,000 548,000	Repeal Repeal
Public Matching Fund Limits	Chapter 2.14 (percent of spending limits)	Councilmember Mayor	30,000 100,000	30,800 102,800	32,800 109,600	Repeal Repeal

Chapter 2.14 CAMPAIGN SPENDING LIMITS AND PUBLIC CAMPAIGN FINANCING

Article I. General Findings

2.14.010 Title.

This chapter may be cited as the "Campaign Spending Limits Code" of the city of Sacramento. (Ord. 2003-046 § 1 (part))

2.14.020 Findings.

The city council of the city of Sacramento finds and declares as follows:

- A. The policy of this city is to protect the integrity of the electoral process.
- B. Monetary contributions to political campaigns are a legitimate form of participation in the political process, but the financial strength of certain individuals or organizations should not permit them to exercise a disproportionate or controlling influence on the election of candidates for municipal office. The increasing amounts of expenditures in political campaigns have forced many candidates for elective office to raise larger and larger sums from individuals or interest groups with a specific financial stake in city matters. This can cause the public perception that the votes of city council members and decisions of elected officials are being improperly influenced by monetary contributions. Such a perception can undermine the credibility of the city council and the governmental process.
- C. The best interests of the citizens of the city of Sacramento are served by reducing the direct and indirect costs of campaigns.
- D. The city finds that limitations on contributions of money, services and materials by individuals or groups to municipal election campaigns should be imposed by law to protect the public health, safety and welfare. These limitations, however, should be reasonable so as not to discourage personal expression or participation in the political process.
- E. Campaign spending for municipal office campaigns is escalating to dangerous and unreasonable levels.
- F. The constant pressure to raise contributions during both election years and off-election years is distracting elected municipal officials from addressing the needs of the community.
- G. Some elected municipal officials are responding to high campaign costs by raising large amounts of money in off-election years to either pay off campaign debts previously incurred or to accumulate campaign funds for future use. This fundraising distracts elected officials from important public matters, encourages contributions which may have a corrupting influence or, at the very least, the appearance of improper influence, and gives incumbent elected officials an unfair fundraising advantage over potential challengers.

H. The integrity of the legislative process and public confidence in elected municipal officials are all diminishing.

I. The public has the right to ensure the fullest and most thorough discussion and debate of public issues during an election campaign by expending public funds to secure the widest possible dissemination of information from diverse and opposing sources to assure an unfettered interchange of ideas.

J. The city finds that voluntary campaign expenditure limitations, coupled with the provision of public funds for campaign purposes, are necessary to further these public interests at a reasonable cost to the city, and that such a program should therefore be established. (Ord. 2003-046 § 1 (part))

2.14.030 Purpose and intent.

The city council of the city of Sacramento enacts this ordinance to accomplish the following purposes:

A. To encourage public trust in the electoral and decision-making processes of the city, and to ensure that individuals and interest groups have a fair and equal opportunity to participate in the elective and legislative process;

B. To reduce the potential for influence by large contributors with a specific financial stake in matters before the city, thus countering the perception that decisions of municipal officials are influenced more by the size of contributions than by the merits of proposals and what is in the best interest of the people of the city;

C. To assist candidates for municipal elective office in raising enough money to communicate their views and positions adequately to the public without excessive expenditures or large contributions, thereby promoting public discussion of the important issues involved in political campaigns;

D. To limit overall expenditures and campaigns for municipal elective offices, thereby reducing the pressure on candidates to raise large campaign war chests beyond the amount necessary to communicate reasonably with voters;

E. To provide a neutral source of campaign financing by providing a limited amount of public funds to defray a portion of the costs of campaigns for municipal elective office;

F. To encourage smaller contributions;

G. To allow municipal officials and elected candidates to spend a smaller portion of their time on fundraising and a greater proportion of their time discussing important city issues;

H. To help restore public trust in the city's legislative and electoral institutions;
and

I. To limit the use of loans and credit in the financing of political campaigns for municipal elective office. (Ord. 2003-046 § 1 (part))

Article II. Definitions

2.14.040 Definitions.

Unless a particular word or phrase is otherwise specifically defined in this article, or the contrary is stated or clearly appears from the context, the definitions set forth in the Political Reform Act of 1974 (Government Code Sections 81000 et seq.) and in Chapter 2.13 shall govern the construction, meaning, and application of words and phrases used in this chapter. References to particular sections of the Government Code or other statutes or laws, including references in this section, shall be deemed to include any changes to such sections, statutes or laws, including any amendments, deletions, additions, renumberings or recodifications that may occur subsequent to the enactment of this code. (Ord. 2003-046 § 1 (part))

Article III. Spending Limitations

2.14.050 Spending limitations.

A. No candidate for the office of city council member who files a statement of acceptance of financing from the Campaign Reform Fund pursuant to Section 2.14.100(A), and whose statement is not rescinded pursuant to Section 2.14.100(C), shall make campaign expenditures in an election for the office of city council member in excess of the following amounts:

1. Eighty-two thousand dollars (\$82,000.00) in a primary election period; and
2. Eighty-two thousand dollars (\$82,000.00) in a general or special election period.

B. No candidate for the office of mayor who files a statement of acceptance of financing from the Campaign Reform Fund pursuant to Section 2.14.100 and whose statement is not rescinded pursuant to Section 2.14.100 shall make campaign expenditures in excess of the following amounts:

1. Five hundred forty-eight thousand dollars (\$548,000.00) in a primary election period; and
2. Five hundred forty eight thousand dollars (\$548,000.00) in a general or special election period.

C. Although only candidates for city office who have filed a statement of acceptance of financing are subject to the expenditure limitations set forth in subsections A and B of this section, it is the intent of this section that such expenditure limitations apply to all candidates for the following purposes:

1. For purposes of determining when otherwise applicable expenditure limitations no longer apply to candidates who have filed a statement of acceptance; and
2. For purposes of determining when a candidate must provide the notification required by Section 2.14.100. (Ord. 2007-015 § 7: Ord. 2005-071 § 1: Ord. 2003-046 § 1 (part))

2.14.060 Expenditure ceilings lifted.

A. Subject to the city clerk's providing notice pursuant to subsection B of this section, the voluntary expenditure ceiling shall be lifted as to any candidate running for a city elective office upon the occurrence of one of the following:

1. If another candidate for the same office declines to accept the voluntary expenditure ceilings and receives contributions, has cash on hand, or makes qualified campaign expenditures in excess of seventy-five (75) percent of the recommended expenditure ceiling for that office; or

2. If an independent expenditure committee or committees in the aggregate spend more than fifty (50) percent of the applicable recommended expenditure ceiling for that same office in support of or in opposition to any other candidate for that office.

B. Upon a determination that one or more of the events specified in subsection A of this section, has occurred, the city clerk shall notify candidates of the occurrence of such event(s) and shall indicate those candidates for city elective office who are entitled to exceed the expenditure limits established by this chapter. The city clerk shall base his or her determination upon the information disclosed in the notification provided by a candidate under Section 2.14.070 and/or upon the information disclosed on any city supplemental statement or form filed under this chapter or Chapter 2.13 or any campaign statement filed under the Political Reform Act or the Regulations by candidates for city elective office or by committees making independent expenditures. No candidate who accepted the voluntary expenditure limits may exceed the expenditure limits except upon notice by the city clerk pursuant to this section.

C. Any candidate running for a city elective office for which the voluntary expenditure ceiling has been lifted who originally accepted the voluntary expenditure ceilings, who did not rescind his or her statement of acceptance under Section 2.14.100(C), and who qualified for matching funds as set forth in Sections 2.14.100, 2.14.130 and 2.14.140, shall be permitted to continue receiving matching funds. (Ord. 2005-071 § 2: Ord. 2003-046 § 1 (part))

2.14.070 Notification by telegram.

Any candidate for city office who receives contributions, has cash on hand or makes qualified campaign expenditures in excess of seventy-five (75) percent of the applicable expenditure limitation set forth in Section 2.14.050 shall notify all opposing candidates and the city clerk of such over expenditure by mailgram, telegram, guaranteed overnight mail through the United States Postal Service or equivalent private delivery service, or personal delivery, within twenty-four (24) hours of such over expenditure. (Ord. 2003-046 § 1 (part))

2.14.080 Extensions of credit.

A. Extensions of credit to a candidate for a period of more than ninety (90) days, or in an amount in excess of the contribution limitations established in Chapter 2.13,

shall be prohibited.

B. Extensions of credit to a candidate shall be considered campaign expenditures for purposes of this article as of the time the extension of credit is granted. (Ord. 2003-046 § 1 (part))

2.14.090 Contingency fee arrangements.

For purposes of the spending limits specified in this article, the amount of the maximum possible fee in a contingency fee arrangement that is entered into between a candidate and individual(s) retained to provide goods or services during the course of a campaign and that bases the contingency fee on the outcome of the election, shall be considered an expenditure. (Ord. 2005-071 § 3: Ord. 2003-046 § 1 (part))

Article IV. Public Financing

2.14.100 Statement of acceptance or rejection.

A. At the time of filing nomination papers by or on behalf of a candidate for the office of mayor or city council member, the candidate shall file with the city clerk one of the following statements:

1. A statement of acceptance of financing from the Campaign Reform Fund; or
2. A statement of rejection of financing from the Campaign Reform Fund.

Candidates for the office of mayor or city council member who have filed or will have filed nomination papers prior to the effective date of this chapter and code shall file a statement of acceptance or rejection of financing from the Campaign Reform Fund not later than fifteen (15) days following the effective date of this chapter and code. Not later than fifteen (15) days prior to the effective date of this chapter and code, the city clerk shall notify candidates who filed nomination papers of candidacy prior to the effective date of this chapter and code of their obligation to file a statement of acceptance or rejection of financing from the Campaign Reform Fund, and shall provide such notice via registered or certified mail.

B. Not later than ten (10) days following the filing of a statement pursuant to subparagraph (A) above, the city clerk shall notify other candidates for the same city office who have filed statements pursuant to subsection (A) above of the filing. The clerk shall provide notice by mailing a copy of the notice via registered or certified mail to the other candidate(s) for the same city office.

C. If a candidate files a statement of rejection of financing, any opposing candidate who has filed a statement of acceptance of financing may rescind such statement and file a statement of rejection with the city clerk within ten (10) days of the notice given by the city clerk.

1. For purposes of this subparagraph, notice shall be deemed to have occurred on the date that the clerk places the notice in the mail.

D. Except as provided in subsection (C), a candidate who files a statement of

acceptance or rejection of financing from the Campaign Reform Fund may not change that decision. (Ord. 2003-046 § 1 (part))

2.14.105 Compliance with Code of Fair Campaign Practices.

Any candidate who files a statement of acceptance pursuant to Section 2.14.100 shall be required to comply with the Code of Fair Campaign Practices set forth in Chapter 1.20 and no matching public funds shall be furnished pursuant to this chapter unless the candidate has filed a statement pursuant to that chapter that the candidate will abide by the Code.

Compliance with the Code of Fair Campaign Practices shall not be subject to the provisions of Article VII of this chapter. (Ord. 2007-012 § 5)

2.14.110 City supplemental pre-election statement.

A. All candidates for city elective office shall file with the city clerk on the eighty-third (83rd) day prior to the election a city supplemental pre-election statement. The city supplemental pre-election statement required by this section shall include all information current up through five (5) days before the date of filing and shall report information per election to date. Each candidate shall file at the same time a copy of the statement on a computer diskette or other electronic media in a format prescribed by the city clerk, provided that the clerk has prescribed the format at least sixty (60) days before the statement is due. If no format has been prescribed in a timely manner, the candidate shall file the statement in a format suitable for electronic scanning.

B. This section shall apply only to persons who qualify as a committee under Section 82013 of the Political Reform Act. (Ord. 2005-071 § 4: Ord. 2003-046 § 1 (part))

2.14.120 Notification by candidates.

Any candidate for mayor who receives contributions of ten thousand dollars (\$10,000.00) or more, or who deposits in the candidate's campaign contribution account funds in the amount of ten thousand dollars (\$10,000.00) or more, and any candidate for councilmember who receives contributions of seven thousand five hundred dollars (\$7,500.00) or more, or who deposits in the candidate's campaign contribution account funds in the amount of seven thousand five hundred dollars (\$7,500.00) or more, shall notify the city clerk of such fact by mailgram, telegram, guaranteed overnight mail through the United States Postal Service or equivalent private delivery service, or personal delivery within twenty-four (24) hours of reaching the ten thousand dollar (\$10,000.00) or seven thousand five hundred dollar (\$7,500.00) limit. The city clerk shall mail notification of such fact, within two working days, to all opposing candidates for whom nomination papers have been filed. (Ord. 2003-046 § 1 (part))

2.14.130 Qualification for matching funds.

A. A candidate shall qualify to receive payments from the Campaign Reform

Fund for a primary or special election only if he or she meets all of the following requirements:

1. The candidate has filed a statement of acceptance of financing and has not rescinded such statement;

2. The candidate has raised and deposited in the candidate's campaign contribution account, after the first day of the primary election period or the special election period, as those terms are defined in Section 2.13.040, at least ten thousand dollars (\$10,000.00) if a candidate for mayor, and at least seven thousand five hundred dollars (\$7,500.00) if a candidate for a city council position, consisting of contributions totaling two hundred fifty dollars (\$250.00) or less per source from sources other than themselves, their spouses or their dependent children;

3. The candidate is opposed by a candidate who has qualified for payments from the Campaign Reform Fund or who has raised or deposited in his or her campaign contribution account contributions of ten thousand dollars (\$10,000.00) or more if a candidate for mayor, or seven thousand five hundred dollars (\$7,500.00) or more, if a candidate for a city council position; and

4. The candidate has filed a statement agreeing to participate in at least one public forum at which all opponents of the candidate who qualified for the ballot are invited to participate. Notwithstanding any other provision of this chapter, the failure of a candidate to participate in at least one such public forum shall not be deemed a misdemeanor or infraction, shall not be the basis of any criminal or civil liability and shall not alter or affect the right of the candidate to receive matching public funds under this chapter to the extent he/she otherwise meets the requirements to receive such matching public funds.

B. All candidates in a general election who have filed a statement of acceptance of financing, have not rescinded such statement, and who meet the requirements of this section shall be entitled to receive payments from the Campaign Reform Fund.

C. For purposes of determining whether a candidate has raised the minimum amount specified in subsection (A)(2) of this section, the first two hundred fifty dollars (\$250.00) of any contribution that exceeds two hundred fifty dollars (\$250.00) shall be counted, and the remainder shall not.

D. For purposes of determining whether a candidate has raised the minimum amount specified in subsection (A)(2) of this section, a loan, pledge, extension of credit, or a non-monetary contribution shall not be considered a contribution.

E. For purposes of determining whether a candidate has raised the minimum amount specified in subsection (A)(2) of this section, the provisions of Sections 2.13.060 and 2.13.090 relating to aggregation of contributions shall apply to the determination of the source of a contribution. (Ord. 2005-071 § 5; Ord. 2003-046 § 1 (part))

2.14.140 Formula for payment of city funds.

A candidate who is eligible to receive payments from the Campaign Reform Fund shall receive payments on the basis of the following formula:

A. Subject to the limit set forth in subsection B of this section, one dollar of public matching funds for each dollar received and deposited of the first two hundred fifty dollars (\$250.00) or less contributed by a contributor and provided further that the contribution is received within that period of time beginning on the 1st of January preceding the date of the primary election and running through to the end of that primary election period, or that period of time beginning on the first day of the general election period and running through to the end of that general election period, or that period of time beginning eighty-eight (88) days prior to the date of a special election and running through to the end of that special election period.

B. **Maximum Match.** The total amount of public funds paid to a candidate shall not exceed: (1) thirty-two thousand eight hundred dollars (\$32,800.00) per election period per candidate for the office of city council member; and (2) one hundred nine thousand six hundred dollars (\$109,600.00) per election period per candidate for the office of mayor. It is the intent of this section to provide a city match of two hundred fifty dollars (\$250.00) even though the total contribution or contributions from a single source exceeds two hundred fifty dollars (\$250.00). It is the further intent of this section that matching funds shall not be paid during the primary election period for contributions made earlier than the 1st of January preceding the date of the primary election; that matching funds shall not be paid during the general election period for contributions made prior to the first day of the general election period; and that matching funds shall not be paid during a special election period for contributions made earlier than eighty-eight (88) days prior to the date of the special election. (Ord. 2007-015 § 8; Ord. 2005-071 § 6; Ord. 2003-046 § 1 (part))

2.14.150 Record keeping and reporting requirements for contributions of less than \$100.00.

A. In order for contributions of less than one hundred dollars (\$100.00) but more than fifty dollars (\$50.00) to be eligible for a match from the Campaign Reform Fund, a candidate must provide the following information on the public financing matching funds request filed in support of the request to match such contribution: the names and addresses of the donor and intermediary, the amount contributed, and the date of each such contribution. This reporting requirement shall also apply to any contribution of fifty dollars (\$50.00) or less for which matching funds are requested where the cumulative contributions from the donor or intermediary total more than fifty dollars (\$50.00) in any election period.

B. With respect to any contribution of fifty dollars (\$50.00) or less for which a candidate requests matching funds from the Campaign Reform Fund, the candidate shall maintain, and shall make available to the city clerk, upon request, a record of the names and addresses of the donor and intermediary, the amount, and the date of each such contribution. (Ord. 2005-071 § 7; Ord. 2003-046 § 1 (part))

2.14.160 Contributions by candidate, spouse or dependent children.

Contributions by a candidate, a candidate's spouse, or a candidate's dependent

children shall not be considered a contribution for purposes of receiving payments from the Campaign Reform Fund pursuant to Sections 2.14.130 and 2.14.140. (Ord. 2003-046 § 1 (part))

2.14.165 Limits on contributions of personal funds by a candidate.

Notwithstanding any other provisions of this code to the contrary, including but not limited to the provisions of Chapter 2.13, if a candidate has filed a statement of acceptance pursuant to Section 2.14.100, the cumulative total of contributions made by that candidate, the candidate's spouse and the candidate's dependent children to the candidate's campaign account shall not exceed thirty thousand dollars (\$30,000.00) for a candidate for the office of mayor in a single election period, for a single election, or seven thousand five hundred dollars (\$7,500.00) for a candidate for the office of city council member in a single election period, for a single election. (Ord. 2005-071 § 8: Ord. 2003-046 § 1 (part))

2.14.170 Loans, pledges and non-monetary contributions.

A loan, a pledge, an extension of credit, or a non-monetary contribution shall not be considered a contribution for purposes of receiving payments from the Campaign Reform Fund pursuant to Sections 2.14.130 and 2.14.220. (Ord. 2003-046 § 1 (part))

2.14.180 Procedure for payment of city funds.

A. Requests for payment of public matching funds may be filed pursuant to this section and shall be paid by the director of the city's department of finance pursuant to this section upon a determination that the requirements of this section and this chapter have been satisfied.

B. Each request for public matching funds shall be made by filing with the city clerk the following documents:

1. A public financing matching funds request;
2. A copy of the public financing matching funds request on a computer diskette or other electronic media in a format prescribed by the city clerk, provided that the clerk has prescribed the format at least sixty (60) days before the statement is due. If no format has been prescribed in a timely manner, the candidate shall file the statement in a format suitable for electronic scanning; and
3. Copies of each check, money order, or other written legal tender eligible to be matched by public funds.

The city clerk shall immediately transmit the request and the accompanying documents to the director of the city's department of finance. The public financing matching funds request required by this section shall be current through two calendar days before filing. Contributions made more than two calendar days prior to the preceding public financing matching funds request filed under this section shall not be eligible for matching public funds.

C. A candidate or candidate's controlled committee certified as eligible to receive public matching funds may submit a public financing matching funds request each time a threshold of ten thousand dollars (\$10,000.00) or more in matchable private contributions is reached for mayoral candidates, and seven thousand five hundred dollars (\$7,500.00) or more in matchable private contributions is reached for candidates for city council member.

D. In addition to requests for payment allowed by subsection C of this section, a candidate or candidate's controlled committee may submit a public financing matching funds request for one thousand dollars (\$1,000.00) or more during the ten (10) calendar days preceding the election.

E. In addition to requests for payment allowed by subsections C and D of this section, after the date of an election, each candidate may submit one final request for payment from the Campaign Reform Fund. Such request shall be submitted within two days after the last day of the election period. Requests for payment received by the city clerk after this date shall not be eligible for payment from the Campaign Reform Fund.

F. The director of the city's department of finance shall have ten (10) working days to approve or reject a request for payment of matching funds and disburse the public funds to the candidate or candidate's controlled committee. If the director of the city's department of finance is required to make a payment to a candidate on a day on which city offices are closed, payment shall be made on the next day that city offices are open. (Ord. 2005-071 § 9; Ord. 2003-046 § 1 (part))

2.14.190 Withholding city funds.

A. If a candidate is eligible to receive funds from the Campaign Reform Fund pursuant to the foregoing provisions of this chapter, the fact that the candidate is, or is alleged to be, in violation of another provision of this chapter shall not constitute grounds for withholding or denying such funds to the candidate except as provided in subsection (B) of this section.

B. Candidates who are eligible to receive funds from the Campaign Reform Fund, and whose campaign statement filed under the Political Reform Act or the Regulations or city supplemental statement or form discloses on its face that such candidate has exceeded the expenditure limitations set forth in Section 2.14.050, shall not be eligible for any further funds from the Campaign Reform Fund unless such expenditure took place after otherwise applicable expenditure limitations were waived for the candidate pursuant to Section 2.14.060. (Ord. 2005-071 § 10; Ord. 2003-046 § 1 (part))

2.14.200 Qualified campaign expenditures.

A. Matching public funds provided under this chapter may be used only for expenditures for direct voter outreach purposes, defined to mean campaign literature, publicity, postage and signage; provided that matching public funds may not be spent for the following:

1. Payments made to the candidate or a family relative, or a business in which

the candidate or family relative has an ownership interest. For purposes of this provision, the definition of "family relative" set forth in Section 2.16.140 of Title 2 of the city code shall apply;

2. Payments in excess of the fair market value of services, materials, facilities or other things of value received in exchange;
3. Payments in cash;
4. Payments made for travel outside of California and expenses related to such travel.

B. Candidates who accept matching public funds under this chapter shall obtain and maintain verifiable written receipts, invoices or other written documentation of the purpose and nature of expenditures. Expenditures for which there is no such documentation shall be excluded from consideration in determining whether public funds were spent on permissible purposes. (Ord. 2007-012 § 4: Ord. 2003-046 § 1 (part))

Article V. Public Funds

2.14.210 Campaign reform fund.

There is hereby established in the annual city budget a Campaign Reform Budget Unit to be administered by the city clerk pursuant to the provisions of this article. (Ord. 2003-046 § 1 (part))

2.14.215 Appropriation.

A. During the preparation of the budget for any fiscal year which contains either a general election period or a primary election period, the city manager shall estimate the amounts necessary to provide the public funding established by this article, and to make all other payments and meet all other expenses authorized by the provisions of this article. Thereafter, the city council shall include in its final budget for the fiscal year the amount, if any, that it determines to be appropriate for the Campaign Reform Budget Unit. In the event that the amounts estimated by the city manager to be necessary to provide the public funding established by this article and to make all other payments and meet all other expenses authorized by the provisions of this article are inadequate, the city clerk shall advise the city council of the shortage, and the city council shall thereafter transfer such additional funds, if any, that it determines to be appropriate, from the General Fund Administrative Contingencies Unit to the Campaign Reform Budget Unit.

B. If a special election or special runoff election is held for a city office and there are not sufficient funds in the Campaign Reform Budget Unit to provide in full the public funding established by this article and to make the other payments authorized by this article, the city clerk shall advise the city council of the shortage, and the city council shall thereafter transfer such additional funds, if any, that it determines to be appropriate, from the General Fund Administrative Contingencies Unit to the Campaign Reform Budget Unit. (Ord. 2003-046 § 1 (part))

2.14.220 Administrative expenses.

All administrative expenses incurred by the city clerk and the Department of Finance in connection with the administration of this article, including, but not limited to, salaries, benefits, supplies and overhead, shall be charged to, and paid from, the Campaign Reform Budget Unit. (Ord. 2003-046 § 1 (part))

2.14.230 Report by city clerk.

A. During an election year, the city clerk shall advise the city council and each candidate on the fifth of each month following a month in which payments were made from the Campaign Reform Fund of the following:

1. The candidates who received funds from the Campaign Reform Fund;
2. The amount received by each candidate from the Campaign Reform Fund;

or

3. The cumulative amounts received by each candidate from the Campaign Reform Fund.

B. Within four months following each election in which funds are provided from the Campaign Reform Fund, the city clerk shall submit a final report to the city council reporting the amount of funds paid to each candidate from the Campaign Reform Fund. In the event a race involves both a primary and general election, the report required by this section shall be submitted within four months of the general election and shall cover both the primary and general elections. (Ord. 2003-046 § 1 (part))

2.14.240 Surplus funds.

All surplus funds remaining after all obligations are met by a candidate shall be returned to the Campaign Reform Fund, not to exceed the amount paid to the candidate from the Campaign Reform Fund, as follows:

A. In the case of a primary or special election where one candidate does not receive a majority of the votes cast, all candidates, except those two candidates who will appear on the ballot in a general or runoff election, must return surplus funds within ninety (90) days after the primary or special election.

B. In the case of a primary or special election where one candidate does receive a majority of the votes cast, and in general and special runoff elections, all candidates must return surplus funds within ninety (90) days after the election. (Ord. 2003-046 § 1 (part))

2.14.250 Insufficient funds—Allocation and disbursement.

A. At the close of the period for filing nomination papers for city elective office, the director of the Department of Finance, in consultation with the city clerk and any other city officers, employees or agents as required, shall determine:

1. The total amount of money in the Campaign Reform Fund as of that date;
and

2. The amount estimated as necessary to provide participating candidates with matching public funds. For purposes of estimating the amount of public funds required, the director of the Department of Finance shall presume that each participating candidate will request, and will be entitled to, the maximum amount of matching public funds made available during the primary and general election periods pursuant to Section 2.14.140.

B. If the director of the Department of Finance determines the monies in the Campaign Reform Fund are insufficient to satisfy the estimated needs of the eligible candidates, and if additional funds adequate to meet the estimated needs of participating candidates are not thereafter transferred into the Campaign Reform Fund, the director of the Department of Finance shall allocate and thereafter disburse the matching public funds on a pro rata basis.

1. Allocation Between Mayoral and Councilmember Races. If it is determined that the amounts in the Campaign Reform Fund are insufficient to meet the estimated needs of participating candidates, the director of the Department of Finance shall allocate forty (40) percent of the Campaign Reform Fund for the mayoral race and sixty (60) percent of the Campaign Reform Fund for the city councilmember races, except as provided below.

a. Exception. To the extent an amount allocated pursuant to the foregoing procedure exceeds the estimated needs of the remaining participating candidates in the mayoral or city councilmember races, the surplus shall be allocated to the other race(s).

2. Reallocation After Primary Election Period. Following the primary elections for the mayor and/or city councilmember races, the director of the Department of Finance shall determine whether the aggregate amounts remaining in the Campaign Reform Fund are sufficient to provide the remaining participating candidates with matching funds in the general election. If it is determined that the amounts are insufficient to meet the estimated needs of the remaining participating candidates, the director of the Department of Finance shall again allocate forty (40) percent of the Campaign Reform Fund for the mayoral race and sixty (60) percent of the Campaign Reform Fund for the city councilmember races, except as provided below.

a. Exception. To the extent an amount allocated pursuant to the foregoing procedure exceeds the estimated needs of the remaining participating candidates in the mayoral and/or city councilmember races, the surplus shall be allocated to the other race(s).

C. Reassessment After Primary Election Period. Following the primary elections for the mayor and/or city councilmember races, the director of the Department of Finance shall determine whether the aggregate amounts remaining in the Campaign Reform Fund are sufficient to provide the remaining participating candidates with matching funds in the general election. If it is determined that the amounts are insufficient to meet the estimated needs of the remaining participating candidates, the director of the Department of Finance shall again allocate and thereafter disburse the matching public funds on a pro rata basis.

D. Disbursement of Public Funds. The director of the Department of Finance

shall disburse monies from the Campaign Reform Fund, as allocated above, to qualifying candidates for the mayoral or city councilmember races pursuant to the following procedures:

1. Primary and Special Elections. The director of the Department of Finance shall disburse matching public funds to participating candidates for the mayoral or city councilmember races on a first come-first served basis, provided that the total amount disbursed to participating candidates in the mayoral or city councilmember races shall not exceed one-half of the amounts allocated to those races pursuant to subsection (B)(1) above. Disbursements to participating mayoral candidates shall be made only from the funds allocated to the mayoral race pursuant to subsection (B)(1) above, and disbursements to participating city councilmember candidates shall be made only from the funds allocated to the city councilmember races pursuant to subsection (B)(1) above.

2. General Elections. The director of the Department of Finance shall disburse matching public funds to participating candidates for the mayoral or city councilmember races on a first come-first served basis, provided that the total amount disbursed to participating candidates in the mayoral or city councilmember races shall not exceed the amounts allocated to those races pursuant to subsection (B)(2) above. Disbursements to participating mayoral candidates shall be made only from the funds allocated to the mayoral race pursuant to subsection (B)(2) above, and disbursements to participating city councilmember candidates shall be made only from the funds allocated to the city councilmember races pursuant to subsection (B)(2) above.

E. Commencing one week after the last date for filing declarations of candidacy, and continuing until the date of the ensuing general election, the director of the department of finance, in consultation with the city clerk and any other city officers, employees, or agents as required, shall issue bi-weekly reports on the financial status of the Campaign Reform Fund. Such report shall include an accounting of how much money remains available in the fund for distri-

bution to qualifying candidates, how many candidates have declared their intention to accept financing and have qualified for financing from the fund, the comparable data regarding eligible candidates and available funds at similar stages in prior elections, if any, and any other information that will assist candidates in estimating whether sufficient funds are likely to be available in the Campaign Reform Fund to satisfy the full entitlement of qualifying candidates. (Ord. 2003-046 § 1 (part))

Article VI. Campaign Statements and Audits

2.14.260 City supplemental statements and forms.

All city supplemental statements and forms required to be filed with the city clerk pursuant to this chapter and Chapter 2.13 shall be on a form prescribed by the city clerk and shall be signed under penalty of perjury. (Ord. 2005-071 § 11: Ord. 2003-046 § 1 (part))

2.14.270 City supplemental post-election statement.

A. Within five days after the last day of an election period for city elective office, each candidate shall file with the city clerk a city supplemental post-election statement. The city supplemental post-election statement required by this section shall include all information current up through the last day of the election period and shall report information per election to date. Each candidate shall file at the same time a copy of the statement on a computer diskette or other electronic media in a format prescribed by the city clerk, provided that the clerk has prescribed the format at least sixty (60) days before the statement is due. If no format has been prescribed in a timely manner, the candidate shall file the statement in a format suitable for electronic scanning.

B. This section shall apply only to persons who qualify as a committee under Section 82013 of the Political Reform Act. (Ord. 2005-071 § 12: Ord. 2003-046 § 1 (part))

2.14.280 Duties of treasurers and candidates.

A. All city supplemental statements and forms filed under this chapter shall be signed under penalty of perjury and certified by both the candidate and the campaign treasurer. The certification shall state that the candidate and the campaign treasurer have used all reasonable diligence in preparing the city supplemental statements and forms, and that to the best of their knowledge it is true and complete.

B. A campaign treasurer to comply with his or her duties with respect to the preparation of city supplemental statements and forms shall:

1. Establish a system of record keeping sufficient to ensure that receipts and expenditures are recorded promptly and accurately;

2. Either maintain the records personally or monitor such record keeping by others;

3. Take steps to ensure that all requirements of this chapter concerning the receipt and expenditure of funds and the reporting of such funds are complied with;

4. Either prepare city supplemental statements and forms personally or review with care the city supplemental statements and forms and underlying records prepared by others;

5. Correct any inaccuracies or omissions in city supplemental statements and forms of which the treasurer knows, and cause to be checked and, if necessary, corrected, any information in city supplemental statements and forms which a person of reasonable prudence would question based on all the surrounding circumstances of which the treasurer is aware or should be aware by reason of his or her duties under this chapter.

C. A candidate to comply with his or her duties with respect to the preparation of city supplemental statements and forms shall:

1. Ascertain whether the treasurer is exercising all reasonable diligence in the performance of his or her duties, including those duties specified under subsection B of

this section;

2. Take whatever steps are necessary to replace the treasurer, or raise the treasurer's performance to required standards, if the candidate knows or has reason to know that the treasurer is not exercising all reasonable diligence in the performance of his or her duties;

3. Review with care the city supplemental statements and forms prepared for filing by the treasurer;

4. Correct any inaccuracies and omissions in city supplemental statements and forms of which the candidate knows, and cause to be checked and, if necessary, corrected, any information in city supplemental statements and forms which a person of reasonable prudence would question based on all the surrounding circumstances of which the candidate is aware or should be aware by reason of his or her duties under this chapter; and

5. Perform with due care any other tasks assumed in connection with the raising, spending or recording of campaign funds insofar as such tasks relate to the accuracy of information entered on city supplemental statements and forms. (Ord. 2005-071 § 13; Ord. 2003-046 § 1 (part))

2.14.290 Duties of the city clerk with respect to city supplemental statements and forms.

A. It shall be the duty of the city clerk to determine whether required city supplemental statements and forms have been filed. In order to fulfill this duty, if the city clerk is aware that a candidate has an obligation to file a city supplemental statement or forms and has failed to do so, the city clerk shall notify the candidate of the obligation to file a city supplemental statement or form. In determining whether required documents have been filed, the city clerk shall not be required to conduct any investigation to determine whether or not a candidate has an obligation to file a city supplemental statement or form.

B. It shall be the duty of the city clerk to determine whether city supplemental statements and forms filed conform on their face with the requirements of this chapter. The city clerk, in determining whether city supplemental statements and forms conform on their face with the requirements of this chapter, shall not be required to seek or obtain information to verify entries on a city supplemental statement or form.

1. The city clerk, in determining whether city supplemental statements and forms conform on their face with the requirements of this chapter, shall review:

a. All statements and forms to determine whether they contain the full name, residential and business addresses and phone number of the candidate and the campaign treasurer;

b. All statements and forms to determine whether they have been signed, dated and verified by the candidate and the campaign treasurer;

c. All statements and forms to determine whether they are legible and printed

in ink or typewritten so that reasonable reproductions can be made;

d. All statements and forms to determine whether beginning and closing dates for the statement or form which are prescribed by law are accurate;

e. All statements and forms to determine whether the following information is contained in the statement or form:

i. The total amount of contributions received during the period and the cumulative total amount of contributions,

ii. The total amount of campaign expenditures made during the period and the cumulative total amount of campaign expenditures,

iii. The total amount of contributions received from persons who have given one hundred dollars (\$100.00) or more,

iv. The total amount of contributions received from persons who have given less than one hundred dollars (\$100.00),

v. The total amount of campaign expenditures of one hundred dollars (\$100.00) or more,

vi. The total amount of campaign expenditures under one hundred dollars (\$100.00),

vii. The total amount of accrued expenses of one hundred dollars (\$100.00) or more,

viii. The total amount of accrued expenses of less than one hundred dollars (\$100.00),

ix. The balance of cash and cash equivalents on hand at the beginning and end of the period,

x. For each person listed as contributor or lender of a cumulative amount of one hundred dollars (\$100.00) or more, the complete name, address, occupation and employer, if any (or name of business, if described as self-employed), cumulative amount contributed, date and amount of contribution or loan,

xi. For each recipient committee listed as a contributor or lender of a cumulative amount of one hundred dollars (\$100.00) or more, in addition to the information specified in subsection (10) above, the identification number assigned to the committee by the secretary of state or the full name and address of the treasurer of the committee,

xii. The following information must be provided for campaign expenditures of one hundred dollars (\$100.00) or more during the period: the complete name of the payee, the address, the amount of each expenditure, a brief description of the consideration for which the campaign expenditure was made and, if the statement or form indicates a person other than the payee provided the consideration, the complete name and address of the person providing the consideration,

xiii. The following information must be provided for accrued expenses of one

hundred dollars (\$100.00) or more during the period: the complete name of the payee, the address, the amount of each expenditure, a brief description of the consideration for which the campaign expenditure was made and, if the statement or form indicates a person other than the payee provided the consideration, the complete name and address of the person providing the consideration,

xiv. For each committee listed as a recipient of a campaign expenditure of one hundred dollars (\$100.00) or more, in addition to the information specified in subsection (e)(x) of this section, the identification number assigned to the committee by the secretary of state or the full name and address of the treasurer of the committee, and

xv. The information required by subsection A of Section 2.13.140;

f. All statements and forms to determine whether there are no gross or readily apparent errors in arithmetic calculations.

C. It shall be the duty of the city clerk to accept for filing any city supplemental statement or form which this chapter requires to be filed. In those cases where the city clerk discovers in his or her review of city supplemental statements and forms that a candidate has filed an incorrect, incomplete or illegible statement or form, or a statement or form which cannot be reproduced, he or she shall make reasonable efforts to notify the candidate of the error or omission. No notification is required in those cases in which the errors or omissions are minor ones which do not recur throughout the statement. An error or omission is minor if it does not result in omission of the amount of an individual contribution or expenditure. An error or omission in connection with the identification of a donor or intermediary is minor if such persons is identified by name and either street address, occupation, employer or principal place of business. An error or omission in connection with the identification of the recipient of an expenditure or person providing consideration for an expenditure is minor if such person is identified by name.

D. Notwithstanding the provisions relating to minor errors or omissions set forth in subsection C of this section, a contribution of one hundred dollars (\$100.00) or more shall not qualify for purposes of receiving funds from the Campaign Reform Fund pursuant to Sections 2.14.130 and 2.14.140 unless the candidate's city supplemental statements and forms include the following information with respect to each such contribution: the complete name, address, occupation, and employer, if any (or name of business, if self-employed), of the donor or intermediary. (Ord. 2005-071 § 14: Ord. 2003-046 § 1 (part))

2.14.300 Audits.

A. The director of the department of finance or his or her authorized representative may make, or have made, investigations or audits with respect to any city supplemental statements and forms required by this chapter, or any campaign accounts for either city or non-city elective office maintained by any candidate, at any time between the last day for filing a nomination papers for a city office and one year following the date of the election in which a candidate is elected to that city office.

B. Each candidate who receives money from the Campaign Reform Fund shall

be subject to audit.

C. Any candidate whose city supplemental statements and forms are subject to an investigation or audit by the director of the department of finance or authorized representative shall provide the director of the department of finance or authorized representative with all financial records, documents and any other information or material requested by the director of the department of finance or authorized representative. (Ord. 2005-071 § 15: Ord. 2003-046 § 1 (part))

2.14.310 Operative date.

The provisions of this chapter shall apply to elections for the office of city council member commencing with city elections, if any, to be held in 2004. The provisions of this chapter shall apply to elections for the office of mayor commencing with city elections, if any, to be held in 2008. (Ord. 2003-046 § 1 (part))

2.14.320 Periodic review.

A. The expenditure limitations set forth in Section 2.14.050 of Article III of this chapter shall be adjusted in the first quarter of every odd-numbered year to reflect any increase or decrease in the cost of living over the previous two-year period, as shown by the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U). Such adjustments shall be rounded off to the nearest thousand dollars.

B. The matching public fund amounts set forth in Section 2.14.140 of Article IV of this chapter shall be adjusted in the first quarter of every odd-numbered year so that the maximum funds made available in a council race is equal to forty (40) percent of the expenditure limitations, as adjusted under subsection A of this section, and the maximum funds made available in a mayoral race is equal to twenty (20) percent of the expenditure limitations, as adjusted under subsection A of this section.

C. No later than March 1st of each odd-numbered year, the city clerk shall bring forth to the city council an ordinance amending the expenditure limitation amounts set forth in Section 2.14.050 of Article III of this chapter and the matching public fund amounts set forth in Section 2.14.140 of Article IV of this chapter to reflect the increase or decrease in the CPI-U pursuant to this section. (Ord. 2005-071 § 16: 3Ord. 2003-046 § 1 (part))

Article VII. Enforcement

2.14.330 Application of state laws.

Nothing in this article shall be deemed to exempt any person from complying with applicable provisions of any other laws of this state, including the contribution limitations contained within the California Political Reform Act (Government Code §§ 81000 et seq.). (Ord. 2003-046 § 1 (part))

2.14.340 Enforcement.

A. Except as provided otherwise in this article, any person who willfully or

knowingly violates any provision of this chapter is guilty of a misdemeanor.

B. In addition to the penalties provided in subsection (A), if after election a candidate is convicted of a violation of any of the provisions of this chapter, the election to office of such candidate shall be void and such office shall become vacant immediately thereupon or on the date upon which the candidate, if he or she is not an incumbent, would otherwise take office, whichever occurs later. In such event, the vacancy shall be filled in accordance with the procedures set forth in the city charter for the filling of vacant city offices. If a candidate is convicted of a violation of this division at any time prior to election, his or her candidacy shall be terminated immediately and the candidate shall no longer be eligible for election. Any person convicted of a violation of this article shall be ineligible to hold city office for a period of five years from and after the date of conviction. (Ord. 2003-046 § 1 (part))

2.14.350 Injunctive relief.

Any candidate or other resident of the city may bring an action, at any time during an off-election year, an election year or thereafter, in a court of competent jurisdiction, to enjoin actual or threatened violations of, or to compel compliance with, or to obtain judicial declarations regarding, the provisions of this article. (Ord. 2003-046 § 1 (part))

2.14.360 Civil liability.

A. The city council may maintain on behalf of the city, or a candidate or other resident of the city may maintain on their own behalf, a civil action to recover personally from a candidate any contributions received by the candidate in excess of the contribution limitations established by this article, any contributions which a candidate fails or refuses to remit to the city clerk or return to the donor pursuant to Section 2.14.050, any campaign expenditures made in excess of the expenditure limitations established by Section 2.14.050, and any funds received by the candidate from the Campaign Reform Fund in violation of any provision of this article.

B. Any money recovered in any action maintained pursuant to this section shall be deposited in the Campaign Reform Fund.

C. The city council may maintain an action pursuant to this section only after the election in which a candidate is election to the city elective office for which the election is held. A candidate or other city resident may maintain an action pursuant to this section at any time during an off-election year, election year or thereafter. (Ord. 2003-046 § 1 (part))