



Office of the City Clerk

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Legislation Text

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Small Donor Matching Campaign Financing Ordinance

Be it ordained that the Municipal Code of the City of Chicago is hereby amended by adding a new Chapter 1-25:

SHORT TITLE. This ordinance may be cited as the "Fair Election Ordinance". 1-25-

010 DEFINITIONS.

For purposes of this chapter, the following definitions apply:

1) "Business dealings with the City" means:

A) a contract, other, than an emergency contract or a contract procured through publicly-advertised competitive sealed bidding, that is for the procurement of goods, services, or construction that are entered into or in effect with the City of Chicago, or an emergency contract for the underwriting of the debt of the City of Chicago and the retention of bond counsel, disclosure counsel, or underwriter's counsel in connection therewith;

B) an acquisition or disposition of real property, other than at public auction or by competitive sealed bid transaction or the acquisition of property pursuant with the City of Chicago;

C) an application for approval sought from the City of Chicago, an application for approval sought from the City of Chicago that has been certified, and an application for a zoning amendment;

D) a concession, other than a concession awarded through publicly-advertised competitive sealed bid, or any franchise from the City of Chicago;

E) a grant received from the City of Chicago;

F) an economic development agreement entered into or in effect with the City of Chicago; and

G) a contract for the investment of pension funds or investments in a private equity firm and contracts with investment related consultants.

2) "Business dealings with the City" include all dealings between the City and a lobbyist as defined in Section [2-156-210] during all periods covered by the lobbyist's registration statement.

3) "FE Board" means the Fair Elections Board created by the Chicago Inspector General to administer the Chicago Fair Elections Fund, as defined in Section [1-25-090] of this ordinance.

4) "Board of Election Commissioners" means board of election Commissioners for the City of Chicago.

5) "City" means the city of Chicago.

6) "Contribution" means a gift, subscription, donation, dues, loan, advance, deposit of money, or anything of value, knowingly received in connection with the nomination for election, election, or retention of any candidate or person to or in public office or in connection with any question of public policy

7) "Covered election" means a special, run-off special, general, or run-off general Municipal Election for nomination for election, or election, to the office of mayor, and alderman.

8) "Exchange" means an exchange of moneys or anything of value between political committees authorized by the same candidate and taking part solely in his or her political campaign.

9) "Expenditure" and "campaign expenditure," means a payment, distribution, loan, advance, deposit, or gift of money or anything of value.

(10) "Corporation" means an organization formed with state governmental approval to act as an artificial person to carry on business (or other activities), which can sue or be sued, and (unless it is nonprofit) can issue shares of stock to raise funds with which to start a business or increase its capital.

11) "FE Fund" means the Chicago Fair Elections Fund created by 1-25-090 of this ordinance.

12) "Inspector General" means the City of Chicago inspector general.

13) "Matchable contributions" means that portion of the net amount of all monetary contributions realized by a candidate or political committee that qualify for public matching funds pursuant to Section [1-25-040]. The following shall not be considered contributions for the purposes of determining matchable contributions:

A) the reasonable value of any goods or services provided to the contributor in connection with the contribution;

B) contributions from a person who has received a payment or anything of value from the political committee or from a person who is an officer, director; or

C) an employee of, or a person who has a 10% or greater ownership interest in any entity that has received the payment or thing of value.

14) "Municipal election" means an election or primary, either regular or special, in the City of Chicago.

15) "Nonparticipating candidate" means a candidate who is not eligible to participate in the public financing system established by this ordinance, has not met the threshold for eligibility for public funding under this ordinance, or has elected not to participate in the system.

16) "Participating candidate" means a candidate who is eligible to participate in the public financing system established by this ordinance, has met the threshold for eligibility, and has elected to participate in the system.

17) "Public matching funds" means the funds issued from the Chicago Fair Elections Fund pursuant to this ordinance.

18) "Qualified campaign expenditure" means an expenditure for which public matching funds may be used pursuant to this ordinance.

19) "Relative" means parent, spouse, domestic partner, sibling, child, grandchild, aunt, uncle, cousin, niece or nephew by blood or by marriage.

20) "Threshold for eligibility" means the amount of total matchable contributions that the participating committee of an otherwise eligible candidate must receive to qualify for public financing pursuant to this ordinance.

1-25-020. REPORTING REQUIREMENTS.

a) A participating candidate shall not form more than one political committee as defined in Illinois Election Code 10 ILCS 5/9-1.8.

b) Every participating candidate shall file financial disclosure reports with the Illinois State Board of Elections and submit them to the FE Board at the same time. The FE Board shall review each disclosure report filed with the Illinois State Board of Elections. In the course of the review, the FE Board shall give candidates, authorized committees and other political committees an opportunity to respond to and correct potential violations and give candidates an opportunity to address questions the FE Board has concerning their matchable contribution claims or other issues concerning eligibility for receiving public matching funds. This section does not preclude the FE Board from subsequently reviewing a disclosure report and taking any action authorized by this ordinance.

c) Only itemized contributions contained in reports filed with the Illinois State Board of Elections are eligible for public matching funds pursuant to this ordinance.

d) The FE Board shall inform participating candidates, authorized committees, and other political committees of relevant questions the FE Board has concerning:

1) compliance with requirements of this ordinance and of the rules adopted by the FE Board; and

2) **qualification for receiving public matching is pursuant to this ordinance. 1-25-**

030. ELIGIBILITY.

(a) To be eligible for public matching funds under this section, a candidate cannot solicit or direct any funds in connection with any election other than funds permissible under this section and each candidate for nomination or election must:

(1) meet all requirements of law, as established in this section and of any other applicable laws, to have his or her name on the ballot;

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2) be a qualified candidate for mayor, city clerk, city treasurer, or city alderman in the municipal election;

3) elect to participate in the public financing system established by this section by filing a written certification in such form as may be prescribed by the FE Board, which sets forth his or her acceptance of and agreement to comply with the terms and conditions for the provision of such funds. The deadline for such certification shall be established by the FE Board.

4) obtain and furnish to the FE Board any evidence it may reasonably request relating to his or her political campaign expenditures or contributions and furnish such other proof of compliance with this section as may be requested by the FE Board.

5) not form or use more than one political committee pursuant to Section [1-25-030].

6) identify accurately in all political campaign materials, including but not limited to television and radio advertisements, yard signs, billboard and other outdoor advertising, and flyers and other literature, the person or entity that paid for the campaign material;

7) meet the threshold for eligibility set forth in Section [25-030];

8) not accept, either directly or by transfer, any contribution, loan, guarantee, or other security for such loan from any political committee or party for all covered elections held in the same calendar year in which he or she is a participating candidate.

9) not accept, either directly or by exchange, any contribution, loan, guarantee, or other security for the loan from any corporation, limited liability company, limited liability partnership or partnership, other than a corporation, limited liability company, limited liability partnership or partnership that is a political committee for all covered elections held in the same calendar year in which he or she is a participating or non-participating candidate, but if a contribution is from a contributor whose name is followed by a professional designation including but not limited to "M.D.", "Esq.", and "CP. A." the FE Board shall not treat the contribution as coming from a corporation, limited liability company, limited liability partnership or partnership in the absence of further indicia that the contribution is from such an entity. This paragraph does not prohibit a candidate from accepting individual contributions aggregated through independent Internet sites, if the donor is an individual whose contribution would otherwise be qualifying under the terms of this section;

10) agree not to accept, either directly or by exchange, any contribution or contributions over two hundred fifty dollars in which he or she is a participating candidate in a municipal election from a natural person who has business dealings with the City pursuant with the Government Ethics Ordinance, Chapter 2-156, Municipal Code of Chicago. For purposes of this subsection, "person" shall include any chief executive officer, chief financial officer and/or chief operating officer of an entity, which has business dealings with the City, any person employed in a senior managerial capacity regarding such an entity, or any person with an ownership interest in such an entity that exceeds 10%. Notwithstanding this paragraph, the limitations on contributions contained do not apply to any contribution made by a natural person who has business dealings with the City to a participating candidate where the participating candidate is the contributor, or where the participating candidate is a relative of the contributor.

11) fulfill the requirements of Section [2-156-425] through Section [2-156-455], including payment of any penalties as determined by the Chicago Board of Ethics.

12) satisfy any claim made by the FE Board for the payment of civil penalties or repayment of public funds that remains outstanding against such candidate from a prior covered election, if (i) the candidate had written notice of such potential claim and ineligibility to receive public funds prior to filing a written certification for the current covered election, or (ii) in the event

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no such timely notice has been given, the candidate has been given an opportunity to present to the FE Board reasons he or she should be eligible to receive public funds; and

b) Each participating candidate and his or her principal committee shall inquire of every individual or entity making a contribution, loan, guarantee or other security for such loan prescribed by the FE Board, as to whether such individual, corporation, partnership, political committee, employee organization or other entity has business dealings with the City, and, if so, the name of the agency or entity with which such business dealings are or were carried on and the appropriate type or category of such business dealings. Such form shall contain in prominent typeface and in a prominent location the statement "If a contributor has business dealings with the City as defined in the Fair Elections Ordinance and government ethics ordinance, such contributor may contribute only up to two hundred fifty dollars." Upon receipt of the response to such inquiry (including any failure to respond), the principal committee shall keep a copy in its records and shall report each contribution to the FE Board on the next applicable filing deadline in accordance with the FE Board's disclosure schedule. The FE Board shall check each contribution against the doing business database pursuant to paragraph 10 of this section and shall notify the principal committee within twenty days of the reporting of such contribution if a contribution exceeding the doing business contribution limitation set forth in subsection 1 of this section is subject to such limitations of this subsection or if a contribution is not matchable pursuant to such subsection. For purposes of this section, "individual" shall include any chief executive officer, chief financial officer, and/or chief operating officer of an entity or persons serving in an equivalent capacity, any person in a senior managerial capacity regarding an entity, or any person with an interest in an entity, which exceeds ten percent of the entity. For purposes of this subdivision, the phrase "senior managerial capacity" shall mean a high level supervisory capacity, either by virtue of title or duties, in which substantial discretion and oversight is exercised over the solicitation, letting or administration of business transactions with the City, including contracts, franchises, concessions, grants, economic development agreements, and applications for land use approvals. Notwithstanding any other provision of this section, no participating candidate shall be liable for any fine or penalty for the failure of any contributor to respond to any such request or for any erroneous response.

c) The threshold for eligibility for public funding for candidates in general or special election for the following offices shall be:

- 1) mayor in an election, not less than \$200,000 from at least 1,145 matchable contributions made up of sums of up to \$175 per individual contributor who resides in the City of Chicago;
- 2) clerk in an election, not less than \$17,500 from at least 100 matchable contributions made up of sums of up to \$ 175 per individual contributor who resides in the City of Chicago;
- 3) treasurer in an election, not less than \$17,500 from at least 100 matchable contributions made up of sums of up to \$175 per individual contributor who resides in the City of Chicago; (4) alderman in an election, not less

than \$17,500 from at least 100 matchable contributions made up of sums of up to \$175 per individual, and in which 60 of the first 100 contributors up to \$175 reside in the ward in which the seat is to be filled and 40 reside within the City of Chicago;

- d) Candidates who are unopposed or write-in candidates in a municipal election are not eligible to receive public matching funds.
- e) A candidate for election to an office in a municipal election who has elected to participate in the public financing system shall not be deemed opposed and receive public matching funds unless there is at least one other candidate for the office in the election who raises at least 10% of the participating candidate's total amount of public matching funds six months prior to the election receipt limit established under Section [1-25-040].

1-25-040. QUALIFIED CAMPAIGN EXPENDITURES.

- a) For purposes of this section, a person associated with a candidate includes a relative of the candidate or a business entity in which the person has a 10% or greater ownership interest or of which the person is an officer, director, or employee.
- b) Public matching funds may only be used for expenditures in furtherance of the candidate's nomination or election no earlier than six months before and ending ninety days after the date of the municipal election for the office sought, for services, materials, facilities or other things of value or, in the case of a special election, for expenditures during the period commencing three months before and ending one month after the special election.
- c) Public matching funds may not be used for activities that are not in furtherance of a political campaign, which includes but is not limited to the following:
 - 1) an expenditure in violation of any law;
 - 2) a payment or anything of value given or made to the candidate, a relative of the candidate, or to a business entity in which any such person has a 10% or greater ownership interest or of which any such person is an officer, director or employee;
 - 3) a payment in excess of the fair market value of services, materials, facilities or other things of value received in exchange;
 - 4) an expenditure made after the participating candidate, or the only remaining opponent of the candidate, has been disqualified;
 - 5) an expenditure made to challenge the validity of any petition of designation or nomination or any certificate of nomination, acceptance, authorization, declination or substitution;
 - 6) a gift, except for brochures, buttons, signs and other political campaign materials and token gifts valued at not more than \$50 that is for the purpose of expressing gratitude, condolences, or congratulations;
 - 7) an expenditure to defray the normal living expenses of the candidate, immediate family of the candidate or any other individual except for the provision of the expenses for professional staff as part of a compensation package;
 - 8) a residential or household item, supply or expenditure;
 - 9) clothing, haircut and other personal grooming;
 - 10) a funeral, cremation or burial expense including an expense related to a death within a candidate's or officeholder's family;

- 11) an automobile purchase;
- 12) a long-term lease
- 13) tuition payment and childcare cost;
- 14) dues, fees or gratuities at a country club, health club, recreational facility or other nonpolitical organization unless part of a specific fundraising event that takes place on the organization's premises;
- 15) admission to a sporting event, theater, concert or other entertainment event not part of a specific campaign activity; and
- 16) an expenditure for non-campaign related travel, food, drink or entertainment; if a candidate uses campaign funds to pay expenses associated with travel that involves both personal activities and political campaign activities, the incremental expenses that result from the personal activities are deemed for personal use unless the candidate benefiting from the use reimburses the campaign account within 30 days for the full amount of the incremental expenses.

(d) There is a rebuttable presumption that the following expenditures are in furtherance of a political campaign for elective office; but, that the presumptions contained in this subparagraph do not apply to an expenditure to a person associated with the candidate; and in rebutting the presumption the FE Board may consider factors including the timing of the expenditure and whether the political campaign had an unusually high amount of spending on a particular type of expenditure:

- 1) computer hardware, software, and other office technology purchased more than 14 days before the date of a municipal election, in the case of a candidate who was not opposed in the municipal election;
- 2) contributions to candidates and political committees subject to this ordinance;
- 3) contributions to charitable organizations designated as Section 501(c)(3) organizations pursuant to the federal Internal Revenue Code;
- 4) costs incurred in demonstrating eligibility for the ballot or public matching funds pursuant to this ordinance or defending against a claim that public matching funds received pursuant to this ordinance must be repaid;
- 5) expenditures in connection with community events hosted by civic and neighborhood associations; but not sporting events, concerts, theater, or other entertainment events that are subject to the section;
- 6) food and beverages provided to campaign workers and volunteers;
- 7) legal defense of a non-criminal matter arising out of a political campaign;
- 8) payment of non-criminal penalties or fines arising out of a political campaign;
- 9) a post-election event for staff members, volunteers, or supporters held within 30 days after the election; and
- 10) travel related solely and exclusively to a political campaign for a covered office or the holding of public office.

1-25-050. PUBLIC FINANCING.

(a) Participating candidates for nomination or election in a municipal election may obtain payment from public matching funds for qualified campaign expenditures. No public matching funds may be

paid to a participating committee until the candidate has qualified to appear on the ballot and filed a sworn statement with the FE Board electing to participate in the public financing system and agreeing to abide by the

requirements of this ordinance. Payments may not exceed the amounts specified in Section [1-25-070], and may be made only in accordance with this ordinance. The payments may only be made to a participating candidate's participating committee. No public matching funds may be used except as reimbursement or payment for qualified campaign expenditures actually and lawfully incurred or to repay loans used to pay qualified campaign expenditures.

b) The participating committee of each participating candidate is entitled to six dollars in public matching funds for each one dollar obtained, up to \$175, and reported to the FE Board in accordance with this ordinance, but the public matching funds may only be used for qualified campaign expenditures. To qualify as matchable contributions, a contribution shall be made:

1) in the case of a municipal election, no earlier than six months before and ending ninety days after the date of the municipal election and only permitted after the election if a committee has incurred debt for the office sought; or

2) in the case of a special election, within three months before and one month after the election by natural persons resident in the City to a candidate for nomination or election to any of the offices covered by this ordinance.

c) No participating candidate for nomination for an office who is unopposed in a municipal election is entitled to payment from the FE Fund for qualified campaign expenditures, unless the condition in Section [1-25-030] is satisfied.

(1) Where there is a contest in the municipal election and the participating candidate is unopposed, the participating candidate may raise and spend an amount equal to twenty-five percent of the public matching funds receipt limit for the office, as fixed by this ordinance for candidates who have elected to accept public matching funds, with contributions of up to \$500 per contributor. The payment can only be expended for property, services or facilities used on or before the date of the municipal election.

d) The FE Board shall promptly examine all reports of contributions within 45 days to determine whether, on their face, they meet the requirements for matchable contributions, and shall keep a record of the contributions.

e) The FE Board shall adopt rules for the certification of the amount of public matching funds payable by the city comptroller from the FE Fund to a participating candidate that has qualified to receive the payment. The rules shall include the forms on which contributions and expenditures are to be reported, the periods during which the reports must be filed, and the verification required. The FE Board shall commence procedures that will make possible payment by the FE

Fund

within two business days after receipt of the required forms and verifications.

f) Public funds will not be available to participating candidates prior to January 1, 2018.

1-25-060. CONTRIBUTION AND EXPENDITURE LIMITATIONS.

a) In any municipal election for any city office, no contributor may make a contribution to any participating

candidate or the candidate's participating committee, and no participating candidate or participating committee may accept any contribution from any contributor which, in the aggregate amount, is greater than \$500.

b) A participating candidate may not accept matchable contributions earlier than six months before and ending ninety days after the date of the municipal election for the office sought.

c) Expenditures by participating or limited participating candidates in a municipal election made prior to or on the date of such municipal election shall be deemed to have been made for such election.

d) A participating candidate is required to maintain a separate bank account for all matching funds. 1-

25-070. LIMITATIONS ON THE RECEIPT OF PUBLIC MATCHING FUNDS.

a) The following limitations apply to the receipt of public matching funds by participating candidates and their participating committees:

(1) In a municipal election, receipt of public matching funds by participating candidates shall not exceed the following amounts:

A) for mayor, the sum of \$3,600,000;

B) for clerk, the sum of

\$180,000;

C) for treasurer, the sum of \$180,000;

D) for alderman, the sum of \$150,000;

b) The amount of private funds a participating candidate may receive is not limited subject to the contribution limits contained in (a) of this Section.

1-25-080. ADJUSTMENT OF VALUES.

a) No later than March 1, 2019, and every fourth year thereafter in proportion to the change in the Consumer Price Index for this state as published by the United States Bureau of Labor Statistics, measured by comparing the consumer price index for the 12 months preceding the beginning of the calendar year against the calendar year 2016 consumer price index, the FE Board shall adjust:

1) eligibility threshold values established in Section [1-25-030];

2) contribution and receipt values established in Section [1-25-060]; and

3) limits for the receipt of public matching funds established in Section [1-25-060].

b) The FE Board shall publish the adjusted values on its website. The adjusted values shall apply for a municipal election held before the next adjustment.

1-25-090. FAIR ELECTIONS BOARD; GENERAL POWERS AND DUTIES.

a) The FE Board shall be established six months after enactment of this ordinance.

b) The FE Board is a subsidiary to the City of Chicago Inspector General composed of seven members, of which two members shall be appointed by the City of Chicago Inspector General; two members shall be appointed by the Mayor; one member shall be appointed by the Board of Election Commissioners, one member shall be appointed by the Chicago Ethics Commission, and one member shall be appointed by the aldermen. If any appointment is not filled within six months of vacancy, an appointment shall be made by the Cook County Clerk.

b) The members of the FE Board shall designate, by consensus, a chair, chosen from the current board members who shall serve as chair at the pleasure of the members of the FE Board. The chair shall be responsible for the administration of the FE Board.

c) The members shall each serve for a term of five years. The terms of office of the FE Board members first taking office after enactment of this ordinance expire as follows:

- 1) one member appointed by the mayor for a term of one year,
- 2) one member appointed by the inspector general for a term of two years,
- 3) one member appointed by the board of election commissioners for a term of three

years,

- 4) one member appointed by the board of ethics for a term of four years,
- 5) one member appointed by the aldermen for a term of five years,
- 6) one member appointed by the mayor for a term of five years,
- 7) one member appointed by the inspector general for a term of five years.

d) Each FE Board member's term shall commence on July 1 of the calendar year following the year of passage. In case of a vacancy in the office of a board member, a new board member shall be appointed to complete the term of the vacated seat according to the original manner of appointment.

e) Upon expiration of the term of a FE Board member, if a new member is not appointed within one hundred twenty days of the expiration of such term, the member whose term has expired shall be deemed appointed for an additional term of five years, provided, however, that if the expiration of such term occurs in a year in which elections, except special elections, covered by the voluntary system of Fair Elections reform are scheduled the member whose term has expired shall be deemed appointed for an additional term of five years if, as appropriate, a member is not appointed within ninety days of the expiration of such term.

f) Each FE Board member must be a resident of the City and registered to vote therein.

g) A current elected official, city officer or employee, or lobbyist as defined in Section [2-156-210] is not eligible to be appointed to the FE Board. A person having business dealings with the city in excess of \$10,000 as defined in Section [2-156-210] is not eligible to be appointed to the FE Board.

h) A FE Board member may be removed for cause by the appointing authority upon notice and an opportunity for a hearing.

(i) No FE Board member shall make a contribution to a candidate subject to this ordinance. No FE Board member shall serve 3 years prior to or 2 years after the municipal election as an officer of a political party or

political committee or be a candidate or participate in any capacity in a political campaign by a candidate who is subject to this ordinance

(j) A FE Board member is entitled to receive reasonable payment for actual and necessary expenses incurred in the performance of their duties as a board member.

(k) The FE Board may use existing staff employees of the inspector general or employ its own employees as may be necessary, including an executive director and a counsel, and may make necessary expenditures subject to appropriation.

(l) The Inspector General shall receive funding from the City's general appropriations in an amount necessary to retain at least two full-time auditors to perform ongoing audits of each election covered by contract entered into pursuant to Section [2-92].

(m) The FE Board shall appoint by consensus an enforcement counsel and a deputy enforcement counsel, and a special counsel and deputy special counsel. The enforcement counsel and the special counsel shall each serve a term of five years and may only be removed for cause. If the FE Board fails to reach consensus on any of the above positions, the Inspector General shall establish such position/s.

(n) The inspector general and the FE Board shall forward all alleged violations of this ordinance and all complaints alleging violations to the enforcement counsel appointed under Section 1-25-110.

1) Upon receipt of the enforcement counsel's initial analysis of a complaint, required under Section 1-25-110, the FE Board shall determine whether or not the allegations, if true, would constitute a violation of this ordinance. If the FE Board determines that the allegations, if true, would constitute a violation of this ordinance and that the allegations are supported by credible evidence, it shall direct the enforcement counsel to conduct an investigation. If the FE Board determines that the allegations are either untrue or not supported by credible evidence, it shall direct the enforcement counsel not to conduct an investigation.

2) Upon receipt of a written recommendation from the enforcement counsel, submitted pursuant to Section [1-25-110], the FE Board shall accept, modify, or reject the enforcement counsel's recommendation no later than 60 days after receipt of the recommendation. In making its determination, the FE Board shall consider whether the complaint alleges a violation of the ordinance and whether the subject of the complaint has made a good faith effort to correct the violation.

(o) The FE Board may request, and shall receive, the assistance of the city police in any investigation it conducts.

(p) In addition to the enforcement powers, and any other powers and duties specified by law, the FE Board shall:

- 1) adopt rules regarding reasonable times to respond to the requests;
- 2) in conjunction with the Inspector General develop an interactive, searchable computer database that contains all information necessary for the proper administration of this ordinance

including information on contributions to and expenditures by candidates and their authorized committees and payment of moneys from the FE Fund and is accessible to the public on the state board of elections and

inspector general websites.

3) develop a program for informing and training candidates and the public as to the purpose and effect of this ordinance, including by means of a website;

4) have the authority to adopt additional rules and prescribe such forms as the FE Board deems necessary for the administration of this ordinance;

5) make public the questions of interpretation for which advisory opinions will be considered by the FE Board and its advisory opinions, including by publication on its website; and

6) render advisory opinions with respect to questions arising under this ordinance upon the written request of a candidate, an officer of a political committee or member of the public, or upon its own initiative.

(q) The FE Board's administration of the FE Fund shall be governed by this ordinance and Section [2-164-425].

(r) The FE Board may take other actions as are reasonable, necessary, and proper to carry out the purposes of this ordinance.

1-25-100. EXAMINATIONS AND AUDITS.

a) The FE Board shall conduct a thorough examination and audit of the contributions and qualified campaign expenses of any participating committee of a participating candidate who receives payments pursuant to Section [1-25-050]. The audits shall be conducted as frequently as the FE Board deems necessary to ensure compliance with this ordinance. The FE Board may conduct as deemed necessary sample audits or perform selective audits of a participating candidate.

b) A candidate who receives public matching funds shall also be audited by the FE Board after the municipal election. The cost of complying with a post-election audit shall be borne by the candidate.

c) A candidate who has received public matching funds must maintain a reserve of at least 1% of the total amount of matching funds received by the candidate in his or her campaign account to comply with the post-election audit. A candidate who runs in a municipal election must maintain a reserve of 1% of the total amount of public matching funds received by the candidate for a municipal election. A candidate may use public matching funds, private funds, or a combination of public and private funds to comply with a post-election audit.

d) The FE Board shall issue to each political campaign that is audited pursuant to this section the final post-election audit report that details its findings and shall provide the audit to the mayor and city alderman and make the audit report publically available on both the Inspector General and State Board of Elections' websites within two years after the municipal election.

e) If the FE Board determines that any portion of the payment made to a participating committee from the FE Fund is in excess of the aggregate amount of payments to which the eligible candidate

is entitled pursuant to Section [1-25-070], it shall notify the participating committee of the excess amount and the participating committee shall pay to the FE Board an amount equal to the amount of excess payments; but if

the erroneous payment was due to an error made by the FE Board, the erroneous payment shall be offset against any future payment, if any. The participating candidate and his or her participating committee are jointly and severally liable for any repayments due to the FE Board for deposit by the FE Board into the FE Fund.

f) If the FE Board determines that any amount of payment made to a candidate from the FE Fund was used for purposes other than to defray qualified campaign expenses, it shall notify the participating committee of the amount disqualified and the participating committee shall pay to the FE Board an amount equal to the disqualified amount. The monies shall be deposited in the FE Fund. The candidate and the candidate's authorized committee shall be jointly and severally liable for any repayments due to the FE Board.

g) If the total of contributions and payments from the FE Fund received by any participating candidate and the candidate's participating committee exceeds the public funding receipt limitation of the candidate and committee, the candidate and committee shall use the excess funds to reimburse the FE Fund for payments received by the committee from the FE Fund not later than 10 days after all permissible liabilities have been paid, and in any event not later than 20 days after the date on which the FE Board issues its final audit report of the participating candidate's committee.

h) Upon determination by the FE Board that a participant willfully delayed the post-election audit process, all unspent public matching funds for a participating candidate are immediately due and payable to the FE Board for deposit directly into the FE Fund through electronic transfer or by debit card upon the FE Board's determination that the participant willfully delayed the post-election audit process.

(i) A participating candidate may make post election expenditures only for routine activities involving nominal costs associated with ending a political campaign and responding to the post-election Audit, including but not limited to expenditures related to an official vote recount or any legal challenge to such municipal election in which the participating candidate was on the ballot.

(j) If a court of competent jurisdiction disqualifies a participating candidate from received public matching funds on the grounds that the participating candidate committed fraudulent acts in order to obtain a place on the ballot and the decision is not reversed by a higher court, the participating candidate and the participating candidate's participating committee shall pay to the FE Board an amount equal to the totality of public matching funds received by the participating committee.

(k) The FE Board shall provide written notice of all payments due from a participating candidate or the candidate's political committee to the FE Board and provide an opportunity for the candidate or committee to rebut, in whole or in part, the alleged amount due. Upon a final written determination by the FE Board, the amount due shall be paid to the FE Board within 30 days after the determination.

(l) All payments received by the FE Board pursuant to this section shall be deposited in the FE Fund.

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1-25-110. ENFORCEMENT COUNSEL.

a) In consultation with the FE Board, the enforcement counsel, appointed under Section [1-25-090], may hire four staff members who are dedicated to training and assisting participating candidates in complying with the requirements of the public financing system established under this ordinance.

- b) The enforcement council may initiate investigations it deems necessary without a complaint or referral from audit.
- c) Upon receipt of a complaint and supporting information alleging any violation of this ordinance, the enforcement counsel shall analyze the complaint to determine if an investigation should be undertaken. The enforcement counsel may request additional information from the complainant to assist in making this determination. The enforcement counsel shall submit the results of its analysis to the FE Board.
- d) At the conclusion of its investigation, the enforcement counsel shall provide FE Board with a written recommendation as to:
 - 1) whether substantial reason exists to believe a violation of this ordinance has occurred and, if so, the nature of the violation and any applicable penalty; and
 - 2) whether a referral should be made to a district attorney or the attorney general because reasonable cause exists to believe a violation warranting criminal prosecution has taken place.
- e) The enforcement counsel shall prepare an annual report summarizing its activities during the previous year. The report must include the number of complaints received, the number of complaints that were found to require investigation, and the number of matters that have been resolved.

1-25-120. COMPLAINT FILING AUTHORIZATION.

- (a) A resident of the City residing in the jurisdiction where a violation of this ordinance allegedly occurred and who is 18 years of age or older may file a complaint with the inspector general or the FE Board that alleges a violation of this ordinance no later than 180 days after the date of the alleged violation. A complaint filed under this section must satisfy all of the following requirements:
 - 1) be signed by the complainant;
 - 2) state the name, address, and telephone number of the complainant; and
 - 3) include the complainant's certification that, to the best of the complainant's knowledge, and upon information and belief formed after a reasonable inquiry under the circumstances, each factual contention of the complaint is supported by evidence or if, after a reasonable inquiry under the circumstances, the complainant is unable to certify that certain factual contentions are supported by evidence, the complainant may certify that, to the best of his or her knowledge, and upon information and belief, there are grounds to conclude that those specifically identified factual contentions are likely to be supported by evidence after a reasonable opportunity for further inquiry.

- b) The FE Board shall develop a form that satisfies the requirements of [above] that may be used for the filing of complaints. The FE Board shall provide reasonable access to digital and physical copies of a complaint form.
- c) A person who files a complaint with a false certificate under [(a)(3)] is guilty of a misdemeanor and, in addition to other penalties as are provided by law, is subject to a fine not to exceed \$10,000.

1-25-130. CIVIL ENFORCEMENT.

- a) A person or authorized committee who knowingly and willfully does not make a filing required by this ordinance is subject to a civil penalty not to exceed \$5,000.
- b) A person or authorized committee who knowingly and intentionally violates this ordinance other than as provided in [subsection (a)] or a rule adopted under this ordinance is subject to a civil penalty not to exceed \$10,000.
- c) The FE Board may impose fines authorized under this section only after a hearing at which the person or authorized committee is given an opportunity to be heard. For purposes of conducting the hearings, the FE Board shall adopt rules governing the conduct of adjudicatory proceedings and appeals taken pursuant to a proceeding relating to the assessment of the civil penalties.
- d) The FE Board shall publish on the inspector general website the final order adjudicating any matter brought pursuant to this section.
- e) All payments received by the FE Board pursuant to this section shall be deposited in the FE Fund.

1-25-140. CRIMINAL PENALTIES.

- a) A person who knowingly and willfully does not make a filing required by this ordinance within 14 days after the required date or a person that otherwise knowingly and willfully violates this ordinance is guilty of a misdemeanor and, in addition to other penalties as are provided by law, is subject to a fine not to exceed \$10,000.
- b) A person who knowingly and willfully contributes, accepts, or aids or participates in the contribution or acceptance of a contribution in an amount exceeding an applicable maximum specified in this ordinance is guilty of a misdemeanor and is subject to a fine not to exceed \$10,000.
- c) A person who knowingly and willfully makes a false statement or knowingly omits a material fact to the FE Board or an auditor designated by the FE Board during any audit conducted pursuant to Section [1-25-100] is guilty of a class E felony

- d) In addition to any other sentence lawfully imposed upon a finding of guilt in a criminal prosecution commenced pursuant to this section, the court may order a defendant to repay to the FE Board any public matching funds obtained as a result of any criminal conduct.
- e) All prosecutions for criminal acts under this ordinance shall be prosecuted by the attorney general.
- f) Fines imposed pursuant to this section shall be made payable to the FE Board for deposit into the FE Fund.

1-25-150. REPORTS.

The FE Board shall submit a report to the mayor and aldermen on or before February 1, 2019, and every four years thereafter, which shall include:

- 1) a list of the participating and nonparticipating candidates in covered elections and the votes received by each candidate in those elections;
- 2) the amount of contributions and loans received, and expenditures made, on behalf of participating and nonparticipating candidates;
- 3) the amount of public matching funds each participating candidate received, spent, and repaid pursuant to this ordinance;
- 4) analysis of the effect of this ordinance on the election campaigns for all offices covered under Section [1-25-030] including its effect on:
 - i) the sources and amounts of private financing;
 - ii) the level of campaign expenditures;
 - iii) voter participation;
 - iv) the number of candidates;
 - v) the candidates' abilities to campaign effectively for public office; and
 - vi) the diversity of candidates seeking and elected to office;
- 5) recommendations for changes to this ordinance, including changes in contribution limits, and thresholds for eligibility and limits on total public matching funds, and on the institution of a program of full public campaign financing for election for all statewide offices; and
- 6) any other information that the FE Board deems relevant.

1-25-160. DEBATES.

- a) The FE Board shall adopt rules to facilitate debates among participating candidates.
- b) Participating candidates must participate in at least two debates before the municipal election for which the candidate receives public matching funds, unless the participating candidate is running unopposed.
- c) A nonparticipating candidate who has met all requirements, as established in this ordinance and of any other applicable laws of this state, to have his or her name on the ballot may elect to be a party to the debates.

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1-25-170. PAYMENTS FROM THE CHICAGO FAIR ELECTIONS FUND.

- a) Moneys may not be paid to participating candidates any earlier than 14 days after the last day to file designating petitions for the municipal election.
- b) Moneys may not be paid to any participating candidate who has been disqualified by the FE Board or whose designating petitions have been declared invalid by the Chicago Board of Elections or a court of competent jurisdiction. A payment from the FE Fund in the possession of a participating candidate or a participating candidate's authorized committee on the date of the disqualification or invalidation may not thereafter be expended for any purpose except the payment of liabilities incurred before that date. A disqualified candidate

shall return all excess public moneys received by the disqualified candidate to the FE Fund not less than 30 days after the municipal election for those participating candidates who receive public moneys for the election.

c) Participating candidates shall pay to the FE Board unspent public matching funds from a municipal election not later than 30 days after all their liabilities for such election have been paid, and in any event, not less than 20 days after the date upon which the FE Board issues its final audit report for the participating candidate's committee.

d) Unspent public matching funds determinations made by the FE Board shall be based on the participating candidate committee's receipts and expenditures. The FE Board may also consider any other relevant information revealed in the course of its audits or investigations or the investigations by any other agency. The FE Board may require candidates maintain public matching funds in a separate account.

e) A participating candidate may not use receipts for any purpose other than disbursements in the preceding municipal election or for the post-election expenditures pursuant to this section until all unspent public campaign funds have been repaid. There is a rebuttable presumption that a postelection expenditure is not for the preceding municipal election

f) Before repaying unspent public campaign funds, a participating candidate may make postelection expenditures only for routine activities involving nominal costs associated with winding up a political campaign and responding to the post-election audit. The expenditures may include:

- (•1) payment of utility bills and rent;
- 2) reasonable staff salaries and consultant fees for responding to a post-election audit;
- 3) reasonable moving expenses related to closing a campaign office;
- 4) a holiday card mailing to contributors, campaign volunteers, and staff members;
- 5) thank you notes for contributors, campaign volunteers, and staff members;
- 6) payment of taxes and other reasonable expenses for compliance with applicable tax laws; and
- 7) interest expenses.

(h) Routine post-election expenditures that may not be paid for with unspent campaign funds include:

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- 1) post-election mailings other than as specifically provided for in this section;
- 2) campaign contributions;
- 3) bonus payments or gifts to staff members or volunteers; or
- 4) holding a post-election day event that includes meals, parties, or transition or inauguration activities.

(i) All monies received by the FE Board pursuant to this section shall be deposited into the FE Fund.

1-25-180. PROCEEDINGS ON PUBLIC FINANCING.

a) A candidate who believes that the FE Board has made an incorrect and harmful determination of eligibility, against him or her, pursuant to Section [1-25-030] and or regarding a question or issue relating to payments for qualified campaign expenditures pursuant to Section [1-25-040] may initiate an appeal procedure to the FE

Board. If a candidate disagrees with the findings after the appeal procedure, the candidate may contest the determination by commencing a proceeding in Illinois court.

- b) A proceeding with respect to a determination of eligibility of payment for qualified campaign expenditures must be commenced within seven days after the determination is made. The FE Board shall be made a party to the proceeding.
- c) If the FE Board does not receive the amount due from a participating candidate or a candidate's political committee after the issuance of written notice of the amount due, as required by Section [1-25-140] the FE Board may commence a special proceeding or civil action to obtain a judgment for any amounts determined to be payable to the FE Board as a result of an examination and audit made pursuant to Section [1-25-100].
- d) The FE Board may commence a special proceeding or civil action to obtain a judgment for civil penalties determined to be payable to the FE Board pursuant to Section [1-25-140]. Litigation costs associated with a special proceeding or civil action are not qualified expenditures for the purposes of this ordinance.

1-25-190. CHICAGO FAIR ELECTIONS FUND.

- a) There is established in the custody of the city comptroller a special non-lapsable trust fund to be known as the FE Fund.
- b) The FE Fund shall begin collecting revenue twelve months after enactment of this ordinance.
- c) A yearly appropriation amount equivalent to 0.1 % of the yearly total revenue in the City's budget and include but not limited to the following dedicated revenue sources:

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- 1) all amounts collected from residents of the City who opt to contribute 3% of their monthly cost of utilities by voluntarily selecting such option on their monthly utility bill;
 - 2) all amounts collected from a 5% increase on fines for campaign finance violations;
 - 3) all amounts collected from a 50% increase on fees to register as a lobbyist with the City of Chicago;
 - 4) general donations made to the FE Fund;
 - 5) and a transfer made to the FE Fund from the City fund to equal the remaining funds necessary to total 0.1 % of the yearly City budget. In the case of a surplus, funds will be sent from the FE Fund to the City's fund in the amount of the surplus.
- b) Monies in the FE Fund shall be kept separate from and not commingled with other funds held in the custody of the city comptroller.
 - c) Moneys shall be paid out of the FE Fund by the city comptroller on vouchers certified or approved by the FE Board established pursuant to or, in the manner prescribed by law, not more than three business days after a voucher is duly certified, approved, and executed by the FE Board in the form prescribed by the city

comptroller.

- d) If, in any city fiscal year, the FE Fund lacks the amount of money to pay all claims vouchered by eligible candidates and certified or approved by the FE Board, the deficiency shall be paid, upon audit and warrant of the city comptroller, from funds deposited in the City's general fund of the state not more than three business days after the voucher is received by the city comptroller.
- e) Public matching funds may not be paid to a participating candidate in a municipal election any earlier than the day that the candidate is certified as being on the ballot for the municipal election.
- f) Public matching funds may not be paid to a participating candidate who has been disqualified or whose designating petitions the Board of Election Commissioners or a court of competent jurisdiction has declared invalid. A payment from the FE Fund in the possession of the candidate or candidate's participating committee on the date of the disqualification or invalidation may not thereafter be expended for any purpose except the payment of liabilities incurred before that date. All other moneys shall be repaid to the FE Fund.

1-25-200. APPLICABILITY.

Candidates for mayor and alderman are eligible to participate in the public financing system beginning with the 2019 municipal election.

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1-25-210. SEVERABILITY. If any clause, sentence, subdivision, paragraph, or section of this ordinance is adjudged by a court of competent jurisdiction to be invalid, the judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subdivision, paragraph, or section thereof directly involved in the controversy in which the judgment is rendered.

1-25-220. EFFECTIVE DATE.

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This ordinance takes effect upon passage and publication.

