

# Honest Elections City of Portland Charter Amendment

Whereas, the people of City of Portland find that limiting large contributions and expenditures in political campaigns would avoid the reality and appearance of corruption, including *quid pro quo* corruption, a new Article 3 to Chapter 3 of the City of Portland Charter, shall read as follows:

## Article 3 Campaign Finance in Candidate Elections

### 3-301. Contributions in City of Portland Candidate Elections.

- (a) An Individual or Entity may make Contributions only as specifically allowed to be received in this Article.
- (b) A Candidate or Candidate Committee may receive only the following Contributions during any Election Cycle:
  - (1) Not more than five hundred dollars (\$500) from an Individual or a Political Committee other than a Small Donor Committee;
  - (2) Any amount from a qualified Small Donor Committee;
  - (3) A loan balance of not more than five thousand dollars (\$5,000) from the candidate;
  - (4) No amount from any other Entity, except as provided in Section 3-304 below.
- (c) Individuals shall have the right to make Contributions by payroll deduction by any private or public employer upon the employer's agreement or if such deduction is available to the employees for any other purpose.

### 3-302. Expenditures in City of Portland Candidate Elections.

- (a) No Individual or Entity shall expend funds to support or oppose a Candidate, except those collected from the sources and under the Contribution limits set forth in this Article.
- (b) An Entity shall register as a Political Committee under Oregon law within three (3) business days of making aggregate Independent Expenditures exceeding \$750 in any Election Cycle to support or oppose one or more Candidates in any City of Portland Candidate Election.
- (c) Only the following Independent Expenditures are allowed per Election Cycle to support or oppose one or more Candidates in any particular City of Portland Candidate Election:

- (1) An Individual may make aggregate Independent Expenditures of not more than five thousand dollars (\$5,000).
- (2) A Small Donor Committee may make Independent Expenditures in any amounts from funds contributed in compliance with Section 3-301 above.
- (3) A Political Committee may make aggregate Independent Expenditures of not more than ten thousand dollars (\$10,000), provided that the Independent Expenditures are funded by means of Contributions to the Political Committee by Individuals in amounts not exceeding five hundred dollars (\$500) per Individual per year.

**3-303. Timely Disclosure of Large Contributions and Expenditures.**

- (a) Each Communication to voters related to a City of Portland Candidate Election shall Prominently Disclose the true original sources of the Contributions and/or Independent Expenditures used to fund the Communication, including:
  - (1) The names of any Political Committees and other Entities that have paid to provide or present it; and
  - (2) For each of the five Dominant Contributors providing the largest amounts of funding to each such Political Committee or Entity in the current Election Cycle:
    - a) The name of the Individual or Entity providing the Contribution.
    - b) The types of businesses from which the maker of the Contribution has obtained a majority of income over the previous 5 years, with each business identified by the name associated with its 6-digit code of the North American Industry Classification System (NAICS).
  - (3) For each of the largest five Dominant Independent Spenders paying to provide or present it:
    - a) The name of the Individual or Entity providing the Independent Expenditure.
    - b) The types of businesses from which the maker of the Independent Expenditure has obtained a majority of income over the previous 5 years, with each business identified by the name associated with its 6-digit code of the North American Industry Classification System (NAICS).
- (b) If any of the five largest Dominant Contributors or Dominant Independent Spenders is a Political Committee (other than a Small Donor Committee)

or nonprofit organization, the prominent disclosure shall include its top three funders during the current Election Cycle.

- (c) The disclosure shall be current to within ten (10) days of the printing of printed material or within five (5) days of the transmitting of a video or audio communication.

**3-304. Coordination with Public Funding of Campaigns.**

A candidate participating in a government system of public funding of campaigns (including the Public Election Fund established under Portland City Code Chapter 2.16) may receive any amount that such system allows a participating candidate to receive.

**3-305. Implementation and Enforcement.**

- (a) The provisions of this Article shall be implemented by ordinance to be operative not later than September 1, 2019.
- (b) Each violation of any provision in this Article shall be punishable by imposition of a civil fine which is not less than two nor more than twenty times the amount of the unlawful Contribution or Expenditure or Independent Expenditure at issue.
- (c) Any person may file a written complaint of a violation of any of the Provisions with the City Auditor.
- (d) The City Auditor, otherwise having reason to believe that a violation of any provision has occurred, shall issue a complaint regarding such violation.
- (e) Upon receipt or issuance of a complaint, the City Auditor:
  - (1) Shall examine the complaint to determine whether a violation has occurred and shall make any investigation necessary.
  - (2) Within two business days of receiving or issuing a complaint, shall issue a notification, including a copy of the complaint, to every person who is the object of the complaint.
  - (3) Shall accept written materials supporting or opposing the complaint for a period of 10 business days following any such notification.
  - (4) Shall render a decision on the complaint within 10 business days of the close of the material submission period.
- (f) If the complaint is received or issued within 30 days of the date of the election involving the object of the complaint, then all time periods stated in subsections (e)(3) and (e)(4) above shall be reduced by one-half.

- (g) The City Auditor may issue subpoenas to compel the production of records, documents, books, papers, memoranda or other information necessary to determine compliance with the provisions of this Article.
- (h) Upon finding a violation of the requirement for timely disclosure set forth in Section 3-303 above, the City Auditor shall determine the true original sources of the Contributions and/or Independent Expenditures used to fund the Communication at issue and shall immediately issue a statement to all interested parties and news organizations containing all of the information about the involved donor(s) required by Section 3-303 above.
- (i) The complainant or any person who is the object of the complaint may, within 30 days of the issuance of the decision, appeal that order to the appropriate Circuit Court as an agency order in other than a contested case.
- (j) The decision in the matter shall be deemed final, following completion of any judicial review. Such decision shall be enforced by the City of Portland. If the decision is not enforced within thirty (30) days of the decision becoming final, the complainant may bring a civil action in a representative capacity for the collection of the applicable civil penalty, payable to the City of Portland, and for any appropriate equitable relief.

**3-306. Adjustments.**

All dollar amounts shall be adjusted on January 1 of each odd-numbered year to reflect an appropriate measure of price inflation, rounded to the nearest dollar.

**3-307. Severability.**

For the purpose of determining constitutionality, every section, subsection, and subdivision thereof of this Section, at any level of subdivision, shall be evaluated separately. If any section, subsection or subdivision at any level is held invalid, the remaining sections, subsections and subdivisions shall not be affected and shall remain in full force and effect. The courts shall sever those sections, subsections, and subdivisions necessary to render this Section consistent with the United States Constitution and with the Oregon Constitution. Each section, subsection, and subdivision thereof, at any level of subdivision, shall be considered severable, individually or in any combination.

**3-308. Definitions.**

Unless otherwise indicated by the text or context of this Article, all terms shall have the definitions at Chapter 260 of Oregon Revised Statutes, as of January 1, 2018. Terms found therein or defined below are capitalized in this Article.

- (a) "Candidate" has the meaning set forth at ORS 260.005(1).

- (b) "Candidate Committee" has the meaning set forth at ORS 260.039 - 260.041, as of November 8, 2016, for the term "principal campaign committee."
- (c) "City of Portland Candidate Election" means an election, including a primary election, to select persons to serve (or cease serving) in public offices of City of Portland.
- (d) "Communication" means any written, printed, digital, electronic or broadcast communications but does not include communication by means of small items worn or carried by Individuals, bumper stickers, Small Signs, or a distribution of five hundred (500) or fewer substantially similar pieces of literature within any 10-day period.
- (e) "Contribution" has the meaning set forth at ORS 260.005(3) and 260.007, as of November 8, 2016, except it does not include (1) funds provided by government systems of public funding of campaigns or (2) providing rooms, phones, and internet access for use by a candidate committee free or at a reduced charge.
- (f) "Dominant Contributor" means any Individual or Entity which contributes more than one thousand dollars (\$1,000) during an Election Cycle to a Candidate Committee or Political Committee.
- (g) "Dominant Independent Spender" means any Individual or Entity which expends more than one thousand dollars (\$1,000) during an Election Cycle to support or oppose a particular Candidate.
- (h) "Election cycle" means:
  - (1) Generally, the period between an election at which a candidate is elected and the next election for that same office, disregarding any intervening primary or nominating election, any recall election, or any special election called to fill a vacancy.
  - (2) For any recall election: the period beginning the day that the recall election is called or declared and ending at midnight of the day of the recall election.
  - (3) For any special election called to fill a vacancy: the period beginning the day that the special election is called or declared and ending at midnight of the day of the election.
- (i) "Entity" means any corporation, partnership, limited liability company, proprietorship, Candidate Committee, Political Committee, or other form of organization which creates an entity which is legally separate from an Individual.
- (j) "Expenditure" has the meaning set forth at ORS 260.005(8) and ORS 260.007, as of January 1, 2018, except that:

- (1) It does not include a Communication to its members, and not to the public, by a Membership Organization not organized primarily for the purpose of influencing an election.
  - (2) The exception in ORS 260.007(7) does not apply.
- (k) "General Election Period" means the period beginning the day after the biennial primary election and ending the day of the biennial general election.
- (l) "Individual" means a citizen or resident alien of the United States entitled to vote in federal elections; however, when this Article expresses a limitation or prohibition, "Individual" means any human being.
- (m) "Membership Organization" means a nonprofit organization, not formed or operated for the purpose of conducting or promoting commercial enterprise, which has Individual members who have taken action to join the organization and have made a payment of money or volunteer time to maintain membership in the organization.
- (1) It cannot have commercial enterprises as members.
  - (2) It can transfer to one and only one small donor committee not more than forty percent (40%) of the amount paid to the organization by each Individual member, with a limit of one hundred dollars (\$100) transferred per Individual member per calendar year.
  - (3) It shall within thirty (30) days of any such transfer notify each paying member of the amount transferred, expressed in dollars or as a percentage of the member's amount paid to the organization. Such notice may be provided by regular mail or electronic mail to each affected member or by posting the information on the organization's main website. If the amount transferred is the same for each member or category of members (in dollars or in percentage of amount paid), the posting may state that amount or percentage without identifying Individual members.
- (n) "Primary Election Period" means the period beginning on the 21st day after the preceding biennial general election and ending the day of the biennial primary election.
- (o) "Prominently Disclose" means that the disclosure shall be readily comprehensible to a person with average reading, vision, and hearing faculties, with:
- (1) any printed disclosure appearing in a type of contrasting color and in the same or larger font size as used for the majority of text in the printed material;

- (2) any video disclosure remaining readable on the regular screen (not closed captioning) for a not less than 4 seconds;
  - (3) any auditory disclosure spoken at a maximum rate of five words per second;
  - (4) any website or email message in type of a contrasting color in the same or larger font size as used for the majority of text in the message;
  - (5) any billboard or sign other than a Small Sign: in type of a contrasting color and not smaller than 10 percent of the height of the billboard or sign.
- (p) "Small Donor Committee" means a Political Committee which has never accepted any Contributions except from Individuals in amounts limited to one hundred dollars (\$100) per Individual contributor per calendar year.
- (q) "Small Sign" means a sign smaller than six (6) square feet.