Article I. Findings and Purpose

3.13.010 Title

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

3.13.020 Findings and Declarations

The findings of this Act are as follows:

A. The financial strength of certain individuals or organizations should not enable them to exercise a disproportionate or controlling influence on the election of candidates.

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

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

3.13.030 Purpose of this Act

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

A. To ensure that all individuals and interest groups in our city have a fair and equal opportunity to participate in elective and governmental processes.

B. To reduce the influence of large contributors with a specific financial stake in matters under consideration by the City of Oakland, and to counter the perception that decisions are influenced more by the size of contributions than by the best interests of the people of Oakland.

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

D. To encourage competition for elective office.

E. To allow candidates and office holders to spend a smaller proportion of their time on fundraising and a greater proportion of their time dealing with issues of importance to their constituents and the community.

F. To ensure that serious candidates are able to raise enough money to communicate their views and positions adequately to the public, thereby promoting public discussion of important issues involved in political campaigns.

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

Article II. Definitions

3.13.040 Interpretation of this Act

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

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

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

Article III. Election Campaign Fund

3.13.050 Election Campaign Fund

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

3.13.060 Appropriation of Funds

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

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

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

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

3.13.065 Allocation of Election Campaign Fund

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

Article IV. Eligibility for Public Financing

3.13.070 Application and Withdrawal Procedures

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

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

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

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

E. In the event expenditure ceilings are lifted pursuant to Oakland Municipal Code Section 3.12.200, a candidate who accepted expenditure ceilings shall be permitted to receive public financing but shall no longer be subject to expenditure ceilings.

3.13.080 Qualification Procedures

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

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

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

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

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

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

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

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

3.13.090 Use of Personal Funds

A candidate who accepts public financing shall not receive contributions or loans from the candidate’s own funds which aggregate total exceeds ten (10) percent of the voluntary expenditure ceiling for the office being sought. If the voluntary expenditure ceilings for the office being sought are lifted, this provision shall not apply.

Article V. Disbursement of Public Financing.

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

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

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

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

3.13.110 Requests for Public Financing

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

B. The qualified campaign expenditures eligible for reimbursement are:

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

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

1. All requests for reimbursement shall be made on a form authorized by the Public Ethics Commission and shall include: (a) a copy of the billing invoice for which reimbursement is sought; (b) a copy of the check(s) by which the candidate's campaign committee made payment on the billing invoice; and (c) a copy, when applicable, of the campaign literature, advertisement, radio or television script, or website configuration.

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

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

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

3.13.120 Disbursement and Deposit of Public Financing

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

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

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

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

3.13.150 Return of Surplus Funds

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

B. For purposes of this Act, campaign funds shall be considered "surplus" campaign funds to the extent that the total amount of contributions (excluding the receipt of public financing) exceed the total financial obligations of the candidate's campaign committee (excluding unlawful or non-qualified campaign expenditures) as of the last day of the semi-annual reporting period following the election. A financial obligation includes 1) accounts payable billed, or, 2) accounts payable for which bills may be expected, for goods or services received during the election.

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

3.13.170.1 Public Debates

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

3.13.180 Enforcement

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

3.13.190 Criminal Misdemeanor Actions

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

3.13.200 Enforcement Actions

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

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

C. Any person alleging a violation of this Act shall first file with the Public Ethics Commission a written complaint on a form approved for such purpose. The complaint shall contain a statement of the grounds for believing a violation has occurred. The Public Ethics Commission shall review, investigate and make determinations regarding any alleged violation consistent with the Public Ethics Commission's General Complaint Procedures.

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

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

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

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

3.13.220 Construction

The Act shall be liberally construed to accomplish its purposes.

3.13.240 Applicability of Other Laws

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

3.13.260 Severability

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