

ORDINANCE NO. _____

An ordinance amending Chapter 3 of Division 24 of the Los Angeles Administrative Code to make various changes to the City Ethics Commission matching funds regulations.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. The introductory paragraph to Subsection (b) of Section 24.31 of the Los Angeles Administrative Code is amended to read as follows:

(b) **Definitions.** The following terms used in this Chapter have the meanings identified below. Other terms used in this Chapter have the meanings identified in the Political Reform Act, Charter Sections 470 and 471, and Municipal Code Sections 49.7.1, *et seq.*

Sec. 2. Subdivision (5) of Subsection (b) of Section 24.31 of the Los Angeles Administrative Code is amended to read as follows:

(5) **“Election Code”** means the Los Angeles City Election Code.

Sec. 3. Subdivisions (7), (9), (10), (11) and (13) of Subsection (b) of Section 24.31 of the Los Angeles Administrative Code are deleted.

Sec. 4. Subdivision (8) of Subsection (b) of Section 24.31 of the Los Angeles Administrative Code is redesignated as Subdivision (7).

Sec. 5. Subdivision (8) of Subsection (b) of Section 24.31 of the Los Angeles Administrative Code is added to read as follows:

(8) **“Political Reform Act”** means the California Political Reform Act of 1974 (California Government Code Sections 81000 *et seq.*) and the related regulations of the California Fair Political Practices Commission.

Sec 6. The term “qualified” in Subdivision (14) of Subsection (b) of Section 24.31 of the Los Angeles Administrative Code is deleted.

Sec. 7. Subdivisions (12), (14), and (15) of Subsection (b) of Section 24.31 of the Los Angeles Administrative Code are redesignated as new Subdivisions (9), (10) and (11), respectively.

Sec. 8. Subsection (c) of Section 24.31 of the Los Angeles Administrative Code is amended to read as follows:

(c) **Filings.** A person required by this chapter to file a document or other item with the Ethics Commission must do so in a method prescribed by the Ethics Commission staff.

Sec. 9. Subdivision (1) of Subsection (a) of Section 24.32 of the Los Angeles Administrative Code is amended to read as follows:

(1) Each candidate for elected City office must file with the Ethics Commission a Statement of Acceptance or Rejection of Matching Funds, as required by Municipal Code Section 49.7.22.

(A) The statement may not be filed earlier than the date the candidate files a Declaration of Intent to Solicit and Receive Contributions under Charter Section 470(c)(1) and may not be filed later than the final date to file a Declaration of Intent to Become a Candidate under City Election Code Section 301.

(B) A candidate who fails to file a Statement of Acceptance or Rejection of Matching Funds within the permitted time period may not be a participating candidate.

(C) A candidate who initially agrees to participate in the program may subsequently decline to participate if another candidate in the same race is a non-participating candidate.

(i) To subsequently decline to participate, the candidate must notify the Ethics Commission in writing no later than 5:00 p.m. on the fifth business day after the final date to file the Declaration of Intent to Become a Candidate. A candidate may not subsequently decline to participate after that date.

(ii) A candidate who subsequently declines to participate in the program is a non-participating candidate who is ineligible to receive matching funds for that election cycle and must return to the City all matching funds received for that election cycle.

Sec. 10. The term "verification" in Paragraph (F) of Subdivision (2) of Subsection (a) of Section 24.32 of the Los Angeles Administrative Code is replaced with the term "certification."

Sec. 11. Paragraph (D) of Subdivision (3) of Subsection (a) of Section 24.32 of the Los Angeles Administrative Code is amended to read as follows:

(D) The candidate has not used and will not use personal funds for the election in excess of the limits in Municipal Code Section 49.7.23(C)(5);

Sec. 12. Paragraphs (E), and (F) of Subdivision (3) of Subsection (a) of Section 24.32 of the Los Angeles Administrative Code are deleted.

Sec. 13. New Paragraphs (E), (F), (G), (H), and (I) of Subdivision (3) of Subsection (a) of Section 24.32 of the Los Angeles Administrative Code are added to read as follows:

(E) The candidate has not used and will not use matching funds in violation of federal, state, or City law or to pay fines, penalties, or inauguration expenses;

(F) The candidate understands that the candidate and the candidate's treasurer must attend the training required by Municipal Code Section 49.7.12 before receiving any matching funds;

(G) The candidate understands that the acceptance of matching funds is effective for both the primary and general elections;

(H) The candidate understands that if another candidate for the same office is a non-participating candidate, the candidate may withdraw from the program up to five business days after the final filing date for filing a Declaration of Intention to Become a Candidate; and

(I) The candidate understands that not abiding by the terms of the program will result in disqualification from the program and may require the candidate to return all matching funds received for that election.

Sec. 14. Subdivisions (2), (3) and (4) of Subsection (b) of Section 24.32 of the Los Angeles Administrative Code are amended to read as follows:

(2) A participating candidate must file a request for qualification with the Ethics Commission.

(A) The request must include the following information:

(i) The date of the request;

(ii) The information in Sections 24.34(a)(1)-(4);

(iii) The information in Sections 24.34(a)(7)(B)(i)-(iv) for each qualified contribution used to comply with Municipal Code Sections 49.7.23(C)(1)(a) and 49.7.23(C)(2). Contributions must be listed alphabetically by the last names of the contributors, with contributions required under paragraph (C) alphabetized separately;

(iv) The documentation required by Section 24.34(a)(8); and

(v) The certification required by Section 24.34 (a)(9).

(B) The request must be filed with the Ethics Commission prior to the date of the primary election. For candidates who do not qualify to receive matching funds in the primary election and proceed to the general election, the request must be filed prior to the date of the general election.

(C) The request must identify at least 200 contributions that comply with the requirements in Municipal Code Section 49.7.23(C)(2). The participating candidate and treasurer must certify under penalty of perjury that, to the best of their knowledge and belief, the identified contributions comply with the requirements.

(D) The request and the first matching funds claim may be the same document, as long as all required information is provided.

(3) Ethics Commission staff must determine whether a participating candidate has met all qualification requirements within four business days after receiving all information necessary to process a request, including certification from the City Clerk that the participating candidate's name will appear on the ballot for the election.

(A) When reviewing whether the participating candidate has met the qualification thresholds in Municipal Code Sections 49.7.23(C)(1)(a) and 49.7.23(C)(2), Ethics Commission staff need not review more qualified contributions than are necessary for a determination that the participating candidate has met the thresholds.

(B) Ethics Commission staff will notify the participating candidate of the determination in writing, and the notice must be signed by the Executive Officer or the Executive Officer's designee.

(4) If Ethics Commission staff determines that a participating candidate is not qualified to receive matching funds, the participating candidate may do either of the following:

(A) Resubmit a request for qualification; or

(B) Submit a written request for review to the Executive Officer.

The request must be submitted within ten business days after the date of the notice of the determination but may not be submitted after the election. The request must specify the reasons the participating candidate believes that the qualification requirements have been met. The Executive Officer will conduct a review and issue a determination

within five business days of receiving the request and may extend that response time for good cause.

Sec. 15. The term "qualified" in Paragraph (B) of Subdivision (2) of Subsection (c) of Section 24.32 of the Los Angeles Administrative Code is deleted.

Sec. 16. Subsection (a) of Section 24.34 of the Los Angeles Administrative Code is amended to read as follows:

(a) **Claim Form.** A participating candidate must file a matching funds claim form with the Ethics Commission to receive matching funds. The form must include all of the following:

Sec. 17. Subdivisions (1), (5), (6), and (7) of Subsection (a) of Section 24.34 of the Los Angeles Administrative Code are amended to read as follows:

(1) The participating candidate's name and an address and telephone number at which the participating candidate may be reached during regular business hours;

(5) The date the claim is submitted;

(6) The total amount of matching funds claimed through the form;

(7) A list of all qualified contributions for which the participating candidate claims matching funds;

(A) The list must be alphabetical by the last names of the contributors;

(B) The following information must be provided for each qualified contribution:

(i) The contributor's name, residence address, occupation, and employer (or, if the contributor is self-employed, the name of the contributor's business);

(ii) The contributor's certification that the information provided under paragraph (i) is correct and that the address provided is the contributor's residence address;

(iii) The date the contribution was received;

(iv) The amount of the contribution;

(v) The cumulative amount of contributions received from that contributor for the same election;

(vi) The portion of the contribution for which matching funds are claimed; and

(vii) The cumulative amount of matching funds already received for the same election based on contributions from that contributor.

Sec. 18. Subdivision (9) of Subsection (a) of Section 24.34 of the Los Angeles Administrative Code is amended to read as follows:

(9) A certification signed under penalty of perjury by both the participating candidate and the treasurer that all contributions have been deposited into the controlled committee's campaign checking account and that, to the best of their knowledge and belief, the form and all supporting documents are true and complete and all contributions are from City residents.

Sec. 19. Subsection (c) of Section 24.34 of the Los Angeles Administrative Code is amended to read as follows:

(c) Payment and Claim Windows.

(1) Matching funds payments will not be made until the City Clerk certifies that the participating candidate's name will appear on the election ballot. Within five business days of the later of certification for the general election or qualification to receive matching funds, each participating candidate who has qualified to receive matching funds will receive one-fifth of the amount specified in Municipal Code Section 49.7.29(B), without being subject to the matching formula specified in Municipal Code Section 49.7.27.

(2) Matching funds claims must identify at least \$10,000 in matchable portions of qualified contributions, as determined by the formula in Municipal Code Section 49.7.27(A), except in the following circumstances:

(A) From 14 days before an election until three months after an election, claims must identify at least \$1,000 in matchable portions of qualified contributions; or

(B) Claims may identify any amount in matchable portions of qualified contributions if the payment requested would result in the participating candidate receiving the maximum matching funds for that election.

(3) Matching funds claims will not be accepted more than three months after the election for which the qualified contribution was made.

Sec. 20. Paragraphs (B), (C), and (D) of Subdivision (1) of Subsection (d) of Section 24.34 of the Los Angeles Administrative Code are amended to read as follows:

(B) Based on the staff review, the Executive Officer or the Executive Officer's designee must determine the amount of matching funds payable to a participating candidate. The staff need not review more qualified contributions than are necessary to match the amount claimed under Subsection (a)(6);

(C) The determination must be made within four business days after the later of receiving all information necessary to process the claim or determining that the participating candidate has met all qualification requirements; and

(D) Ethics Commission staff must notify the participating candidate in writing of the determination.

Sec. 21. Subdivision (2) of Subsection (d) of the Section 24.34 of Los Angeles Administrative Code is amended to read as follows:

(2) If Ethics Commission staff determines that any portion of a matching funds claim is not payable, the candidate may submit a written request for review to the Executive Officer within ten business days of the date on the notice of the determination. The request must specify the reasons the participating candidate believes that a different amount should be paid. The Executive Officer or the Executive Officer's designee will conduct a review and issue a determination within five business days of receiving the request and may extend that response time for good cause.

Sec. 22. The introductory sentence of Subsection (e) of the Section 24.34 is amended to read as follows:

(e) **Processing Claims.** Matching funds payments will be processed as follows.

Sec. 23. Subdivision (3) of Subsection (e) of the Section 24.34 of Los Angeles Administrative Code is amended to read as follows:

(3) For all authorizations that it receives by 2:00 p.m., the Controller's office will issue payment no later than noon on the second business day after receipt.

Sec. 24. Subdivision (1) of Subsection (f) of Section 24.34 of the Los Angeles Administrative Code is amended to read as follows:

(1) Matching funds payments will be available for distribution within six business days after the later of the date the Ethics Commission receives all information necessary to process a claim or the date the Ethics Commission determines that the participating candidate has met all qualification requirements.

Sec. 25. The term "report" in Subdivision (4) of Subsection (f) of Section 24.34 of the Los Angeles Administrative Code is replaced with the term "receipt."

Sec. 26. Subsection (a) of Section 24.35 of the Los Angeles Administrative Code is amended to read as follows:

(a) Determinations regarding qualification by and amounts of payment to candidates are subject to post-payment reviews and audits pursuant to Charter Section 702(d) and Section 24.41 of this Code.

(1) If a review or audit reveals that additional matching funds may be paid to a candidate, Ethics Commission staff will notify the candidate.

(2) If a review or audit reveals that a candidate received excess matching funds, the candidate must return the amount of the excess to the Ethics Commission within ten business days of receiving notice of the overpayment. If the funds are not returned within ten business days, subsequent payments will be reduced by the amount of the overpayment.

Sec. 27. Section 24.36 of the Los Angeles Administrative Code is amended in its entirety to read as follows:

Sec. 24.36. Return of Matching Funds.

(a) Candidates may be required to return matching funds if they are disqualified from or violate the terms of the program or for other reasons specified in the Municipal Code or this Chapter.

(b) Matching funds must be returned within the following time periods:

(1) Surplus matching funds must be returned within 90 calendar days after the election or, if the candidate withdraws from the election, within ten calendar days after the withdrawal.

(2) If Ethics Commission staff notifies a candidate in writing that matching funds must be returned, the matching funds must be returned with 15 calendar days of the date on the written notice.

(c) Matching funds must be returned through a cashier's check payable to the Ethics Commission for deposit into the Fund.

(d) Candidates who do not return matching funds as required are subject to legal action for collection of the funds.

Sec. 28. Section 24.37 of the Los Angeles Administrative Code is amended in its entirety to read as follows:

Sec. 24.37. Recordkeeping Requirements.

(a) Candidates must use best efforts to obtain, maintain, and submit to the Ethics Commission all required information.

(1) Candidates must keep complete records of all efforts to obtain, maintain, and submit required information.

(2) For receipts, bills, and bank records, best efforts require at least one written effort per transaction to obtain the documentation.

(b) Candidates must retain all records and documents required to be kept under this chapter, Municipal Code Sections 49.7.1 *et seq.*, and California Government Code Section 91011 for at least four years after the date of the last election to which the records or documents relate.

(c) Candidates must notify the Ethics Commission in writing of any person other than the treasurer who is a custodian for the candidate's records. The notice must include the location of those records and documents and must be amended whenever a change of address occurs.

Sec. 29. Subsection (a) of Section 24.38 of the Los Angeles Administrative Code is amended to read as follows:

(a) Matching funds may be spent only for purposes reasonably related to influencing or attempting to influence the actions of the voters for or against the election of a City candidate in the race for which the matching funds were distributed. Using matching funds in other ways is a misappropriation of the funds and violates this Chapter.

Sec. 30. The term "participating" in Subsections (b) and (c) of Section 24.38 of the Los Angeles Administrative Code is deleted.

Sec. 31. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

HOLLY WOLCOTT, City Clerk

By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By 
RENEE A. STADEL
Deputy City Attorney

Date 9/19/2014

File No. _____