

Proposed by the Olympia chapter of Washington Public Campaigns

August 2008

Ordinance No. _____ DRAFT

AN ORDINANCE of the City of Olympia, Washington, relating to voluntary public funding of city council candidate election campaigns.

WHEREAS, [insert intent language], now, therefore,

THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. Adoption of Olympia Municipal Code Chapter 1.32. The following new chapter, Olympia Municipal Code Chapter 1.32, Public Campaign Funding, is adopted as follows:

1.32.000 - Chapter Contents

Chapter 1.32

Public Campaign Funding

Sections:

1.32.010 Public Campaign Funding for Olympia City Council Candidates

1.32.010 – Public Campaign Funding for Olympia City Council Candidates

A. Definitions – The definitions of “ballot proposition,” “candidate,” “contribution,” “expenditure,” “immediate family,” “independent expenditure,” “in-kind contribution,” “receipt,” “volunteer services,” and any other terms in this chapter not otherwise defined, unless otherwise indicated by the context, shall be the applicable definitions established in Chapter 42.17 RCW or by the Washington State Public Disclosure Commission.

B. Qualifying for public funding – The City of Olympia (City) will provide public funds for the election campaigns of qualified candidates for the Olympia City Council.

1. Participation in the public funding program is voluntary. Candidates may chose to accept private campaign funding instead of seeking to qualify for public funding.

2. Candidates wishing to participate in the public campaign funding program must first file a notice of intent with the City. A notice of intent may be filed no earlier than January 1 of the calendar year of the election.

3. To qualify for public funds, a candidate must collect at least three hundred (300) signatures of registered voters residing within the city limits of Olympia, including the candidate, and must receive a qualifying contribution of exactly Ten Dollars (\$10) from each signer.

a. No person or organization may pay the qualifying contribution on behalf of the signer, nor reimburse the signer, nor give the signer anything of value in exchange for the signature and qualifying contribution.

b. To ensure sufficient valid signatures, the candidate may collect more than three hundred (300) signatures and qualifying contributions.

c. Qualifying contributions must be made by check or money order made out to the City of Olympia.

4. Signatures must be accompanied by the printed full name and address of each signer, as the signer is registered to vote, and the date of signing. A candidate may begin collecting signatures no earlier than the date the candidate files a notice of intent.

5. The document signed by voters must state the name of the candidate, the city council position for which the candidate is running, the dates of the primary and general elections, and the following statement:

NOTICE: This petition is to qualify this candidate for public funding in a campaign for Olympia City Council. To be valid, signatures must be from registered voters residing within the city limits of Olympia. Each signature must be accompanied by a qualifying contribution of \$10 from the signer to the City of Olympia. No person or organization may pay the contribution on behalf of the signer, nor reimburse the signer, nor give the signer anything of value in exchange for the signature and contribution.

6. To qualify, a candidate must be a registered voter residing within the city limits of Olympia and otherwise be eligible to serve on the Olympia City Council.

7. To qualify, a candidate must have no unresolved outstanding money judgments imposed by any court.

8. To receive public funds, the candidate must sign a contract with the City agreeing to all the requirements and provisions of this chapter.

C. Seed money – Prior to receiving public funds, to aid in collecting signatures and qualifying contributions, a candidate may accept up to One Thousand Dollars (\$1,000) in seed money contributions. No more than One Hundred Dollars (\$100) may come from any single donor, each of whom must be a registered voter residing within the city limits. In addition, the candidate and their immediate family may donate no more than \$400.

1. Seed money contributions made by check or money order should be made out to the candidate's campaign.

2. A single donor may give a candidate both a qualifying contribution and a seed money contribution.

3. The total amount of seed money contributions received by the candidate will be deducted from the public funds the candidate receives for the primary election, and the seed money contributions will thereafter be treated as public funds for the purposes of this chapter.

D. Submitting and validating signatures – Signatures and qualifying contributions must be submitted to the City no later than twenty eight (28) calendar days after the candidate filing period.

1. After a candidate submits signatures and qualifying contributions to the City, the City has ten (10) business days to confirm whether the candidate has collected enough valid signatures and otherwise qualifies for public funds. If the candidate has insufficient valid signatures, the candidate may continue to collect and submit signatures and qualifying contributions.

a. The City may employ the services of the Thurston County Auditor to validate the signatures. The City Manager is authorized to reimburse the Thurston County Auditor for any reasonable costs incurred for validation of signatures.

b. Any member of the public may file an objection to a finding that a candidate is qualified to receive public funds, up to ten (10) business days after the finding. The City will review any information provided regarding this objection and make a final determination within ten (10) business days after the objection is filed. Until the final determination, the candidate will be considered qualified to receive public funds.

2. Qualifying contributions submitted will be placed by the City into an account to be used solely for the public campaign funding program.

3. If a candidate fails to qualify for the public funding program, all qualifying contributions submitted to the City will be used by the City solely for the public campaign funding program.

4. The City will not discriminate based on race, color, gender, religion, ethnicity, national origin, sexual orientation, gender identity, familial status, disability, political party, or ideological belief, or perception thereof, in providing public funds to qualifying candidates.

E. Amount of public funding:

1. Each qualified candidate will receive Six Thousand Dollars (\$6,000) for their primary election campaign, minus the amount the candidate received in seed money contributions under section C.

2. Each qualified candidate who advances to the general election will receive Nine Thousand Dollars (\$9,000) for their general election campaign.

a. Candidates may use any unspent funds from their primary election campaign for their general election campaign.

b. If there are only two candidates in a city council race, so that the candidates will not appear on the primary election ballot, qualified candidates will receive public funds as if they appeared on the primary election ballot.

c. If a qualified candidate is unopposed after the close of the candidate filing period, that candidate will receive no funds for the general election.

3. After 2009, at the beginning of each calendar year, the dollar amounts in this section, section H., and section M. will be adjusted every election cycle by the Seattle Consumer Price Index-W (June) for the previous year, and adjusted for population increases rounded to the nearest One Hundred (\$100) dollars.

F. Providing public funds:

1. For a primary election, the City will provide public funds to a qualified candidate within five (5) business days after confirming that the candidate qualifies for public funds.

2. For a general election, the City will provide public funds to a qualified candidate who advances to the general election within five (5) business days after the primary election, based on the most current unofficial election results available from the Thurston County Auditor. If the final certified election results differ from the unofficial election results, the City will provide public funds within one (1) business day after certification of the election to any additional qualified candidate advancing to the general election, and any candidate

who received public funds for the general election but who did not advance to the general election must return all general election public funds to the City.

G. Prohibition on private campaign contributions – A qualified candidate may not accept any private campaign contributions, including further seed money contributions, nor loans, nor spend the candidate’s own money on the campaign, except as provided below.

1. A qualified candidate may accept in-kind contributions up to a cumulative value of Three Hundred Dollars (\$300), with no more than a value of Fifty Dollars (\$50) from any single donor, and only from registered voters residing within the city limits of Olympia. For the purposes of the public campaign funding program, these in-kind contributions are not treated as contributions nor expenditures of the campaign.

2. Volunteer services, for which the volunteer is not normally reimbursed, as provided in Chapter 42.17 RCW or by the Washington State Public Disclosure Commission, are not a contribution and thus are allowed without restriction.

H. Fair fight matching funds – When an opposing candidate receives or spends more for their campaign than the amount provided to qualified candidates through the public campaign funding program, the City will provide the qualified candidate with additional public funds to match the opposing candidate.

1. An “opposing candidate” means any candidate running in the same election for the same position on the Olympia City Council as a qualified candidate.

2. If an opposing candidate receives or spends more than Six Thousand Dollars (\$6,000) prior to the primary election, a qualified candidate will receive matching funds equal to the opposing candidate’s amount in excess of Six Thousand Dollars (\$6,000), up to a maximum of another Six Thousand Dollars (\$6,000), for a cumulative total of Twelve Thousand Dollars (\$12,000) in public funds.

3. After the primary election, if an opposing candidate receives or spends more than Fifteen Thousand Dollars (\$15,000) total for the primary election and general election combined, a qualified candidate will receive matching funds equal to the opposing candidate’s amount in excess of Fifteen Thousand Dollars (\$15,000), up to a maximum of another Fifteen Thousand Dollars (\$15,000), for a cumulative total of Thirty Thousand Dollars (\$30,000) in public funds.

a. Funds matched before the primary election will not be matched again for the general election.

b. For the general election, the opposing candidate’s funds will be matched regardless of whether the opposing candidate received or spent those funds before or after the primary election, up to the limit in subsection H.3.

4. If the opposing candidate is also qualified for the public campaign funding program and receives an improper contribution or makes an improper expenditure, as provided in this chapter, a qualified candidate will receive matching funds equal to the amount of the improper contribution or expenditure, even if the opposing candidate must return the improper amount to the City.

5. If two or more opposing candidates each accept or spend amounts that would make a qualified candidate eligible for matching funds, the qualified candidate will receive matching funds based on the highest amount among the opposing candidates.

6. If a third party makes an independent expenditure in opposition to a qualified candidate or in support of an opposing candidate, the independent expenditure will be added to the contributions received by the opposing candidate, and the combined total will be used for the purpose of determining matching funds. Determination of independent expenditures will be made based on campaign finance reports filed with the Washington State Public Disclosure Commission. The qualified candidate is responsible for bringing information about the independent expenditure to the attention of the City.

7. The City will provide matching funds within two (2) business days of receiving information indicating that a qualified candidate is eligible to receive matching funds.

8. All provisions in the chapter regarding the use of public funds apply equally to matching funds.

I. Overall public spending cap – The total amount of public funds provided by the City to all qualified candidates combined in a two-year election cycle will be limited to an amount equal to Five Dollars \$5 multiplied by the number of residents residing within the city limits of Olympia as of the beginning of the calendar year of the election.

1. The City will determine the number of residents based on the best information available from appropriate agencies of Washington state government or the United States government, using best estimates if necessary.

2. Once it is known how many candidates qualify for public campaign funding in a given calendar year, the City will hold in reserve a sufficient amount under the overall public spending cap to fully fund all qualified candidates who may advance to the general election, including the maximum potential fair fight matching funds.

3. If the total amount of public funds provided to qualified candidates before the primary election reaches the amount remaining under the overall public spending cap after a reserve is held for the general election, the available funds will be distributed equally to all qualified candidates, up to the amount for which each candidate is eligible.

4. After 2009, at the beginning of each calendar year, the amount per resident in this section will be adjusted by the Seattle Consumer Price Index-W (June) for the previous year, rounded to the nearest cent.

J. Spending public funds – A qualified candidate may spend public funds only for campaign purposes, as provided in Chapter 42.17 RCW or by the Washington State Public Disclosure Commission, that are related to the candidate's campaign for Olympia City Council.

1. In addition, a qualified candidate may not spend public funds to purchase any good or service from the candidate, any immediate family of the candidate, or any business or organization in which any such person has more than a remote financial interest, even if the purchase is intended to be used for campaign purposes. Such persons may receive reimbursement for campaign related expenses, as provided in Chapter 42.17 RCW or by the Washington State Public Disclosure Commission.

2. A qualified candidate may not use public funds to pay any debt, other than payment for goods and services previously received by the campaign, nor any fine or penalty.

3. A qualified candidate may not contribute public funds to another candidate or a campaign in support of or opposition to a ballot proposition, nor spend public funds on

an independent expenditure campaign for or against another candidate or a ballot proposition.

4. A qualified candidate may not contribute public funds to any organization except as payment for goods or services received by the campaign.

5. A qualified candidate may not spend more than the total of the public funds received.

a. A candidate may not incur any expense in excess of public funds received in anticipation of paying the excess amount with private funds.

b. Prior to a primary election, a candidate may not incur any expense in excess of public funds received in anticipation of paying the expense with public funds received for the general election.

c. In addition to any other penalty, a candidate who incurs such an expense may not receive further public funds during that calendar year.

6. A qualified candidate may not use public funds for attorney's fee or professional service fees related to whether the candidate or any other candidate qualifies for public funds or whether the candidate or any other candidate has violated any requirement of this chapter.

7. After a general election, and after a primary election for those candidates who do not advance to the general election, qualified candidates must return to the City all public funds unspent as of the election.

8. For the purposes of this section, an expenditure of campaign funds is considered to occur on the date an order for goods or services is placed, an obligation to pay for goods or services is otherwise incurred, or the goods or services are received, whichever comes first. For periodic expenses, such as monthly or weekly rent or salaries, the expenditure is considered to occur on the first day of the period.

K. **Withdrawing from public funding** – A qualified candidate may withdraw from the public campaign funding program, and terminate their contract with the City, by notifying the City and immediately returning all public funds received, whether spent or unspent by the campaign, plus interest on the public funds of twelve percent (12%) per annum plus a twenty percent (20%) administrative fee.

1. If a qualified candidate fails to file for the ballot during the candidate filing period or withdraws from the ballot after the candidate filing period, the candidate is considered withdrawn from the public campaign funding program and must return all public funds received, whether spent or unspent by the campaign, plus interest on the public funds of twelve percent (12%) per annum plus a twenty percent (20%) administrative fee.

2. The City may provide a hardship exemption for a qualified candidate who withdraws from the campaign due to death or severe illness or injury of the candidate or any immediate family of the candidate, or who suffers any similar personal emergency. In this case, the candidate must return any public funds unspent as of the candidate's withdrawal, without interest nor an administrative fee.

L. **Violations and penalties for misuse of public funds:**

1. If a qualified candidate, or any person acting on behalf of or as an agent of the candidate or the candidate's campaign, knowingly violates or fails to comply with any term or provision of this chapter with intent to use public funds for any private benefit

other than winning election to the Olympia City Council, that person shall be deemed to have committed a gross misdemeanor.

a. If found guilty, that person shall be subject to a fine not to exceed Five Thousand Dollars (\$5,000), and/or to imprisonment not to exceed three hundred and sixty five (365) days, or to both such fine and imprisonment.

b. In addition, the candidate shall be required to return to the City all public funds received, whether spent or unspent by the campaign, plus interest on the public funds of twelve percent (12%) per annum plus a twenty percent (20%) administrative fee. Further, the candidate shall be ineligible for public funds for any future election in any year.

2. If a qualified candidate, or any person acting on behalf of or as an agent of the candidate or the candidate's campaign, violates or fails to comply with any term or provision of this chapter in any manner whatsoever other than as described under subsection L.1., that person shall be found to have committed a civil infraction.

a. If found to have committed a civil infraction, that person shall be assessed a monetary penalty as follows: First offense: Class 3 (\$50); Second offense: Class 2 (\$125); Third and further offenses: Class 1 (\$250).

b. In addition, upon the finding of a civil infraction, the candidate must return to the City an amount equal to the public funds involved in the civil infraction multiplied by two (2), plus interest on this amount of twelve percent (12%) per annum plus a twenty percent (20%) administrative fee. The total amount returned will be deducted from the amount the candidate may spend in their campaign.

c. However, upon a first offense under this subsection by any person, the City will waive the monetary penalty and requirement to return public funds if the City determines that the civil infraction was unintentional and that the candidate has since come into full compliance with this chapter.

d. Upon a third offense combined by either a candidate or any person acting on behalf of or as an agent of the candidate or the candidate's campaign, the candidate shall be required to return to the City all public funds received, whether spent or unspent by the campaign, plus interest on the public funds of twelve percent (12%) per annum plus a twenty percent (20%) administrative fee. Further, the candidate shall be ineligible for public funds in that calendar year.

3. Criminal fines and civil penalties may not be paid using public funds.

4. Any time a qualified candidate is required to return public funds to the City, the candidate will be personally responsible for paying the funds within sixty (60) days, regardless of whether the campaign has sufficient funds available.

5. The city is authorized to take any necessary legal action to secure payment from a candidate of any amount past due.

M. Public disclosure requirements - A qualified candidate remains obligated to report their campaign contributions and expenditures to the Washington State Public Disclosure Commission as required by state law.

1. Both qualified candidates and candidates for Olympia city council who are not participating in the public campaign funding program must provide the City with a copy of all their campaign disclosure reports filed with the Washington State Public

Disclosure Commission. These reports must be received by the City within two (2) business days after the report is filed with the Washington State Public Disclosure Commission. On campaign disclosure reports, a qualified candidate should list the contributor of the public funds as "City of Olympia Public Campaign Funds".

2. In addition to the requirements of subsection M.1., candidates for Olympia City Council who are not participating in the public campaign funding program but who are opposing a qualified candidate must notify the City whenever they receive or spend an amount in their campaign greater than the public funding amounts.

a. Before the primary election, such candidates must notify the City of every contribution and expenditure once they receive or spend more than Six Thousand Dollars (\$6,000).

b. After the primary election, such candidates must notify the City of every contribution and expenditure once they receive or spend more than Fifteen Thousand Dollars (\$15,000), cumulative for the primary and general elections.

c. Pledges of future contributions are treated as received on the date of the pledge.

d. For the purposes of this section, loans to a campaign are treated as contributions.

e. An expenditure of campaign funds is considered to occur as provided in subsection J.7.

f. Notice under this section must be provided to the City within two (2) business days of the date of the receipt or expenditure.

g. If a candidate fails to comply with the notification requirements of this subsection, that person shall be found to have committed a civil infraction. If found to have committed a civil infraction, that person shall be assessed a monetary penalty as follows: First offense: Class 3 (\$50); Second offense: Class 2 (\$125); Third and further offenses: Class 1 (\$250); plus, for all offenses, an additional penalty equal to the amount of the contributions or expenditures for which notice was not provided, up to a maximum of Five Hundred Dollars (\$500). However, upon a first offense under this subsection by any candidate, the City will waive the monetary penalty if the City determines that the civil infraction was unintentional and that the candidate provided the required notice within ten (10) business days of the date of the contributions or expenditures.

3. If a conflict arises between this chapter and Washington state campaign finance requirements under Chapter 42.17 RCW or as provided by the Washington State Public Disclosure Commission, the City Manager is authorized and directed to waive or modify the requirements of this chapter to the extent necessary for both the City and all Olympia city council candidates to be in full compliance with state campaign finance requirements. The City Manager must immediately notify the Olympia city council and all known candidates for Olympia city council of any such change in requirements.

N. Information and procedures:

1. The City Manager, or designee, will prepare information for public distribution that explains the public campaign funding program, including how to qualify, how and how much public funding is provided, and a sample document for collecting qualifying signatures. This information will be made available at city hall, by mail or email, and on the city's internet site.

2. The City Manager, or designee, will establish any necessary procedures and forms to implement public funding for city council campaigns, including for how candidates submit qualifying signatures to the City, how the City validates signatures and provides public funding to qualified candidates, how to adjudicate civil infractions and objections to a finding that a candidate is qualified to receive public funds, and how candidates provide required notices to the City. City council members will have no role whatsoever in these procedures.

3. All information provided to the City by a candidate under this chapter is public record subject to public disclosure. Such information will be promptly posted on the city internet site.

4. The City Manager, or designee, will establish a system for accepting voluntary contributions to the public campaign funding program.

Section 2. Ratification. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

[Use the following section if the ordinance is on the ballot in Spring 2009]

Section 3. Campaigning before the effective date.

1. In 2009 only, if a candidate accepts campaign contributions prior to the effective date of this ordinance that would violate the restrictions on seed money established in subsection 1.C. of this ordinance, such contributions will be treated as seed money contributions without penalty to the candidate. The candidate may not accept further contributions that violate the restrictions on seed money contributions, in total or from any individual, on or after the effective date of this ordinance. The total amount of seed money contributions received by the candidate, regardless of whether they were received before or after the effective date of this ordinance, will be deducted from the public funds the candidate receives.

2. In 2009 only, if a candidate collects signatures and qualifying contributions prior to the effective date of this ordinance, but not before January 1, 2009, and those signatures and qualifying contributions meet all the requirements established in subsection 1.C. of this ordinance, the signatures and qualifying contributions will be valid for qualifying the candidate for the public campaign funding program. The candidate need not file a notice of intent before collecting the signatures and qualifying contributions, but must file the notice within fourteen (14) calendar days of the effective date of this ordinance.

Section 4. Severability. The provisions of this ordinance are declared separate and severable. If any provision of this ordinance or its application to any person or circumstances is held invalid, the remainder of this ordinance or application of the provision to other persons or circumstances shall be unaffected.

Section 5. Effective Date. This ordinance shall take effect five (5) days after passage and publication, as provided by law.