

**ARTICLE 5**  
**FINANCE, PROPERTY, AND PROCUREMENT**

**(As Last Amended by Ord. 22-131)**

**Published by**  
**BALTIMORE CITY DEPARTMENT OF LEGISLATIVE REFERENCE**  
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**2022**

**SUBTITLE 11  
FAIR ELECTION FUND**

**EDITOR’S NOTE:** This subtitle was added by Ordinance 20-338. Per Sections 3 and 4 of the Ordinance, the effective date of Parts 1 and 2 of this subtitle is January 23, 2020 (the date of the Ordinance’s enactment); and the effective date Parts 3, 4, and 5 of this subtitle is January 1, 2021.

***PART 1. DEFINITIONS; FINDINGS***

**§ 11-1. Definitions.**

(a) *In general.*

In this subtitle, the following terms have the meanings indicated.

(b) *Applicant candidate.*

“Applicant candidate” means a candidate who is seeking to be a certified candidate in a primary or general election.

(c) *Campaign finance entity.*

“Campaign finance entity” means a political committee established under Title 13 of the State Election Article {“Campaign Finance”}.

(d) *Certified candidate.*

“Certified candidate” means a candidate who is certified as eligible for public campaign financing from the Fund.

(e) *Commission.*

“Commission” means the Baltimore City Fair Election Fund Commission.

(f) *Contested election.*

“Contested election” means any election in which there are more candidates for an office than the number who can be elected to that office.

(g) *Contribution.*

“Contribution” has the meaning stated in State Election Law Article, § 1-101 {“Definitions: Contribution”}.

(h) *City Board.*

“City Board” means the Baltimore City Board of Elections.

(i) *City resident.*

“City resident” means a natural person who resides in Baltimore City.

(j) *Director.*

“Director” means the Director of Finance or the Director’s designee.

(k) *Election cycle.*

“Election cycle” has the meaning stated in State Election Law Article, § 1-101 {“Definitions: Election cycle”}.

(l) *Eligible contribution.*

“Eligible contribution” means an aggregate donation in a 4-year election cycle from an individual, including an individual who does not reside in the City, that does not exceed the contribution level established in this subtitle.

(m) *Fund.*

“Fund” means the Baltimore City Fair Election Fund.

(n) *Participating candidate.*

“Participating candidate” means a certified candidate who has received a public contribution from the Fund during the current election cycle.

(o) *Public contribution.*

“Public contribution” means any money disbursed from the Fund to a certified candidate.

(p) *Publicly funded campaign account.*

“Publicly funded campaign account” means a campaign finance account established by a candidate for the exclusive purpose of receiving eligible contributions and spending funds in accordance with this subtitle.

(q) *Qualifying boost.*

“Qualifying boost” means a one-time disbursement from the Fund to candidates for Mayor or Council President on certification under this subtitle.

(r) *Qualifying contribution.*

(1) *In general.*

“Qualifying contribution” means an eligible contribution in support of an applicant candidate that is:

- (i) made by a City resident;
- (ii) made after the beginning of the designated qualifying period, but no later than the respective election; and
- (iii) acknowledged by receipt that identifies the contributor's name and residential address and signed by the contributor directly or by a digital signature using a method approved by the State Board.

(2) *Exclusion.*

“Qualifying contribution” does not include an in-kind contribution of property, goods, or services.

(s) *Qualifying period.*

“Qualifying period” means the time beginning on January 1 following the last election for the office the candidate seeks and ending 45 days before the date of the primary election.

(t) *Slate.*

“Slate” has the meaning stated in State Election Law Article, § 1-101 {“Definitions: Slate”}.

(u) *State Board.*

“State Board” means the Maryland State Board of Elections.

(Ord. 20-338)

**§ 11-2. {Reserved}**

**§ 11-3. Findings.**

(a) *In general.*

The Mayor and City Council find as follows.

(b) *Responsive government.*

Local government should be responsive and serve the needs of all Baltimore City residents equally without regard to their wealth. Public officials should discharge their duties in an impartial manner, free from bias created by their own financial interests or, in the case of elected officials, the financial interests of those that may have supported them during their electoral campaigns.

(c) *Escalating costs of electoral campaigns.*

Costs of conducting electoral campaigns have increased significantly in recent years. Many candidates are forced to finance their campaigns by seeking large contributions from individuals

and entities who thereby gain disproportionate influence over governmental decision once the candidate holds office. Qualified candidates without access to personal wealth or wealthy donor networks are often dissuaded from seeking public office. Those that do run find it difficult to win with their voices drowned out in the media and on the ground.

(d) *Negative public perception.*

Perception of the inappropriate and disproportionate influence on government by those monied donors who dominate campaign financing has led to disillusionment among city residents who have felt that their voices are not heard. This disillusionment has resulted in disengagement from the political process and government.

(e) *City policy.*

It is the policy of Baltimore City to:

- (1) diminish the public perception of corruption and build public faith and confidence in governmental and electoral processes;
- (2) help reduce the influence of large individual and corporate campaign contributions on city government and eliminate the potential for public corruption;
- (3) reduce the impact of wealth as a determinant for whether an individual seeks to pursue public office;
- (4) enable City residents of all races and income to run for office based on the strength of their ideas, supported by small donations from the public and matching funds from the Fund;
- (5) provide participating candidates with sufficient resources in order to communicate with voters;
- (6) foster greater investment and more meaningful public participation in the political process among all Baltimoreans, regardless of race, gender, socio-economic status, or geography;
- (7) prioritize accountability among elected officials to the constituents who elect them rather than those who fund their campaigns;
- (8) strengthen public control over the direction of local government; and
- (9) strengthen democracy in the city of Baltimore.

(Ord. 20-338)

**§ 11-4. {Reserved}**

***PART 2. FUND; COMMISSION***

**§ 11-5. Fair Election Fund established.**

(a) *In general.*

There is a Baltimore City Fair Election Fund.

(b) *Nature of Fund.*

The Fund is a continuing, nonlapsing fund established under the authority of City Charter Article I, § 15 {"Special fund for fair elections"}.

(c) *Purposes of Fund.*

As set forth in City Charter Article I, § 15(a)(2), the purposes of the Fund include:

- (1) providing direct funding to candidates for public office who meet certain qualifications;
- (2) providing technical assistance and training to individuals seeking to make use of public campaign funding;
- (3) publicizing the availability of public campaign funding; and
- (4) administering a public campaign funding program.

(d) *Contents of Fund.*

The Fund consists of:

- (1) money appropriated to the Fund in the annual Ordinances of Estimates;
- (2) grants or donations made to the Fund;
- (3) any unspent money remaining in a certified candidate's publicly funded campaign account after the candidate is no longer a candidate for office;
- (4) any public contribution plus interest returned to the Fund by a participating candidate who withdraws from participation;
- (5) interest earned on money in the Fund; and
- (6) proceeds from fees and fines collected under this subtitle.

(e) *Uses of Fund.*

The Fund may only be used for the purposes specified in subsection (c) of this section.  
(Ord. 20-338)

**§ 11-6. {Reserved}****§ 11-7. Fair Election Fund Commission.**(a) *In general.*

There is a Baltimore City Fair Election Fund Commission as specified in City Charter Article I, § 15(b).

(b) *Staff.*

The Department of Finance must provide staff support for the Commission to:

(1) work with the State Board to administer the Fund and to provide oversight of applicant and participating candidates; and

(2) provide information about the Fund to candidates and the public.

(Ord. 20-338)

**§ 11-8. Fund administration; Commission duties.**(a) *In general.*

(1) The Director, in consultation with the Commission, must administer the Fund and ensure that the funds are dispersed in an equitable basis.

(2) The Director may not disperse any funds from the Fund without prior Commission consultation.

(b) *Annual report.*

On or before January 1 of each year, the Commission must issue a report to the Mayor and City Council containing:

(1) an estimate of the funds necessary to implement the public campaign finance system for the following fiscal year;

(2) a recommendation for an appropriation to the Fund for the following fiscal year; and

(3) if necessary, any recommendations for dedicated sources of funding.

(c) *Meetings.*

The Commission must meet:

(1) at least once every 90 days during the 12 months preceding a primary election; and

(2) at least twice a year otherwise.

(Ord. 20-338)

**§ 11-9. Rules and regulations.**

Subject to Title 4 {"Administrative Procedure Act – Regulations"} of the City General Provisions Article, the Director, in consultation with the Commission, must adopt rules and regulations to carry out the provisions of this subtitle, including specifying:

- (1) how and when receipts for qualifying contributions from contributors must be submitted to the State Board;
- (2) the documents that must be filed with the State Board for certification;
- (3) when disbursements from the Fund are made to a participating candidate and the amounts disbursed;
- (4) procedures for handling impermissible uses of public contributions; and
- (5) other policies necessary to implement this subtitle.

**Editor's Note:** By authority of Ordinance 20-431, Section 5, the Director of Legislative Reference, in consultation with the Law Department, has conformed the text of this section to refer to and reflect the requirements of the recently-enacted Administrative Procedure Act that, effective January 15, 2021, governs the proposal, adoption, and publication of administrative rules and regulations.

*(Ord. 20-338; Text Conformed 02/14/21)*

**§ 11-10. {Reserved}*****PART 3. COMMUNITY ENGAGEMENT; POST-ELECTION REVIEWS*****§ 11-11. Community education and engagement.****(a) *In general.***

At least 18 months prior to a general election, the Commission must conduct civic education and community engagement efforts aimed at ensuring that candidates and voters are informed on the Fund and how they may participate.

**(b) *Activities.***

In conducting the civic education and community engagement efforts required under this section, the Commission must:

- (1) create and distribute education materials in English and in Spanish that raise awareness about the Fund among voters and potential candidates;
- (2) provide training to candidates and campaigns regarding the Fund and any applicable campaign finance laws and regulations; and



- (3) work with community-based organizations to ensure education materials are relevant and assessable to members of communities that historically have been marginalized from elections and civic processes, including making any necessary translations for Baltimore voters.

(Ord. 20-338)

### § 11-12. Commission review.

(a) *In general.*

After each general election for city office, the Commission must conduct a comprehensive review of the financing program under this subtitle, including:

- (1) the maximum and minimum dollar amounts of qualified small dollar contributions;
- (2) the number and value of qualified small dollar contributions a candidate is required to obtain to be eligible for certification as a participating candidate;
- (3) the maximum amount of disbursements a candidate may receive under this subtitle;
- (4) the overall satisfaction of participating candidates and the public with the program;
- (5) the analysis, recommendation and creation of a plan to the Mayor and City Council to reduce racial, ethnic, socio-economic and geographic disparities regarding access to public matching funds by participating candidates; and
- (6) other matters relating to financing of campaigns as the Commission determines are appropriate.

(b) *Criteria for review.*

In conducting the review under this section, the Commission must consider the following:

- (1) whether the number and dollar amounts of qualified small dollar contributions required strikes an appropriate balance regarding:
  - (i) the importance of voter involvement; and
  - (ii) the need to assure adequate incentives for participation and fiscal responsibility, taking into consideration the number of primary and general election participating candidates, the electoral performance of those candidates, program cost, and any other information the Commission determines is appropriate;
- (2) whether the totality of the amount of funds allowed to be raised by participating candidates, including through qualified small dollar contributions, and disbursements under this subtitle are sufficient for voters in the City to learn about the candidates to cast an informed vote, taking into account the historic amount of spending by winning candidates, media costs, primary election dates, and any other information the Commission determines is appropriate; and

- (3) any other matter relating to public campaign financing that the Commission determines are necessary and appropriate for a thorough review.

(c) *Recommendations.*

Based on the review conducted under this section, the Commission may recommend to the Mayor and City Council:

- (1) adjustments to the number and value of qualified small dollar contributions a candidate is required to obtain to be eligible for certification as a participating candidate;
- (2) adjustments to the maximum amount of disbursements that may be received under this subtitle; or
- (3) any other legislative change necessary to increase candidate participation, voter participation, or both.

(d) *Community participation.*

The Commission must engage community members and community-based organizations in the review under this section to determine whether the Fund is achieving its stated purposes of fostering greater participation in the political process.

*(Ord. 20-338)*

**§ 11-13. {Reserved}**

***PART 4. CANDIDATE AND FUND PROCEDURES***

**§ 11-14. Collecting qualifying contributions.**

(a) *In general.*

Before raising any contributions under this subtitle, an applicant candidate must:

- (1) file a notice of intent with the State Board in the manner that the State Board requires; and
- (2) establish a publicly funded campaign account.

(b) *Contribution limits.*

- (1) Except as otherwise provided in paragraph (2) of this subsection, an applicant candidate may not accept:
  - (i) an eligible contribution of more than \$150 in the aggregate during an election; or
  - (ii) a loan.

(2) An applicant candidate may loan or contribute up to \$6,000 during an election cycle from:

- (i) the applicant candidate; or
- (ii) the applicant candidate's spouse.

(c) *Consumer Price Index adjustment.*

(1) the contribution limit set forth in subsection (b)(1) of this section must be adjusted for the next election cycle on July 1, 2028, and July 1 of each subsequent fourth year by the percentage increase in the Baltimore-Columbia-Towson Consumer Price Index, as reported by the United States Department of Labor, rounded up by the nearest multiple of \$10.

(2) The Director must publish this adjusted amount no later than the January 1 after the adjustment is made.

(Ord. 20-338)

### **§ 11-15. Requirements for certification.**

(a) *Application.*

(1) A candidate must apply to the State Board for certification during the qualifying period in the form that the State Board requires.

(2) An applicant candidate must include with the application any documentation required by the State or, in the absence of State requirements, the following:

- (i) a declaration from the applicant candidate to follow the requirements governing the use of a public contribution;
- (ii) a campaign finance report that contains the information that the State Board requires for a campaign finance report and that includes:
  - (A) a list of each qualifying contribution received;
  - (B) a list of each expenditure made by the candidate during the qualifying period;
  - (C) a copy of the receipt associated with each contribution that identifies the contributor's name and residential address; and
  - (D) a copy of the receipt associated with each expenditure; and
- (iii) a certificate of candidacy for Mayor, Council President, Comptroller, or City Councilmember.

(b) *Qualifications.*

To qualify as a certified candidate:

- (1) a candidate for Mayor must collect at least:
  - (i) 500 qualifying contributions; and
  - (ii) an aggregate total of \$40,000;
- (2) a candidate for Council President must collect at least:
  - (i) 250 qualifying contributions; and
  - (ii) an aggregate total of \$15,000;
- (3) a candidate for Comptroller must collect at least:
  - (i) 250 qualifying contributions; and
  - (ii) an aggregate total of \$15,000; and
- (4) a candidate for City Councilmember must collect at least:
  - (i) 150 qualifying contributions; and
  - (ii) an aggregate total of \$5,000.

(c) *Contributions.*

- (1) An applicant candidate must deposit all contributions into the candidate’s publicly funded campaign account.
- (2) An applicant candidate must deliver to the State Board a copy of a receipt for each qualifying contribution that identifies the contributor’s name and residential address that is signed by the contributor directly or by a digital signature using a method approved by the State Board.

(d) *Ineligibility.*

An applicant candidate is ineligible for certification if the State Board, in consultation with the Commission, has determined that the applicant candidate has:

- (1) failed to submit a campaign finance report in the 4 years preceding the election cycle;
- (2) coordinated with a political action committee; or
- (3) violated any rule or regulation adopted under this subtitle.

(Ord. 20-338)

**§ 11-16. Certification determination.***(a) In general.*

- (1) Within 10 days of receiving a complete application for certification, the State Board must make a determination, in consultation with the Commission, whether to certify an applicant candidate.
- (2) The State Board must notify the Director and the Commission of the State Board's determination.

*(b) Finality of decision.*

Except as provided in subsection (d) of this section, the decision by the Commission whether to certify a candidate is final.

*(c) Applicant candidate certification.*

- (1) Subject to paragraph (2) of this subsection, on notice of the State Board's certification of an applicant candidate, the Director must disperse the appropriate public contribution under § 11-17 {"Distribution of public contribution"} of this subtitle.
- (2) The Director may not disburse any public funds to a candidate without first consulting with the Commission.

*(d) Denial of application.*

If an application is denied, the applicant candidate may resubmit a new or modified application one time within the earlier of:

- (1) 10 business days after receiving notice that the application was denied; or
- (2) the end of the qualifying period.

**§ 11-17. Distribution of public contribution.***(a) In general.*

Only after consulting with the Commission, the Director must distribute a public contribution from the Fund to each certified candidate in a contested election only during the distribution period as follows:

- (1) for a certified candidate for either Mayor, Council President, or Comptroller, the matching dollars must equal:
  - (i) \$9 for each dollar of a qualifying contribution received for the first \$25 of each qualifying contribution;

(ii) \$5 for each dollar of a qualifying contribution received for the next \$50 of each qualifying contribution; and

(iii) \$2 for each dollar of a qualifying contribution received for the final \$75 of each qualifying contribution.

(2) for a certified candidate for City Councilmember, the matching dollars must equal:

(i) \$9 for each dollar of a qualifying contribution received for the first \$25 of each qualifying contribution;

(ii) \$5 for each dollar of a qualifying contribution received for the next \$50 of each qualifying contribution; and

(iii) \$0 for each dollar of a qualifying contribution received for the final \$75 of each qualifying contribution.

(b) *Qualifying boost.*

(1) *In general.*

In addition to any public contributions made under subsection (a)(1) of this section, within 5 days of certification, the Director must disburse from the Fund a qualifying boost of:

(i) \$200,000 for a candidate for Mayor; and

(ii) \$50,000 for a candidate for Council President or a candidate for Comptroller.

(2) *Multiple boosts prohibited.*

A candidate may not receive more than 1 qualifying boost during an election cycle.

(c) *Maximum public contribution.*

(1) *In general.*

Except as provided in paragraph (2) of this subsection, the total public contribution payable to a certified candidate for either a primary or a general election may not exceed:

(i) \$1,500,000 for a candidate for Mayor;

(ii) \$375,000 for a candidate for Council President;

(iii) \$200,000 for a candidate for Comptroller; and

(iv) \$125,000 for a candidate for City Councilmember.

(2) *Exclusion.*

The limits specified in this subsection do not include the qualifying boost received by a candidate for Mayor or Council President.

(d) *Prohibited public contributions.*

The Director may not distribute a public contribution based on:

- (1) a contribution or loan from the candidate or the candidate's spouse; or
- (2) an in-kind contribution of property, goods, or services.

(e) *Fund insufficiency.*

- (1) On or before July 1 of each year preceding a primary election, the Director must determine if the amount in the Fund is sufficient to meet the maximum public contributions and qualifying boosts reasonably expected to be required during the next election cycle.
- (2) If the Director determines that the total amount available for distribution in the Fund is insufficient to meet the allocations required by this section, the Director must reduce each public contribution and qualifying boost to a certified candidate by the same percentage of the total public contribution.

(f) *Disbursements after the primary election.*

Within 3 business days of the primary election, the Director must continue to disburse the appropriate public contribution for the general election to each participating candidate.

(g) *Return of unspent funds.*

(1) *Primary election candidates.*

Within 30 days of the certification by the City Board of the results of the primary election, a participating candidate who is not certified to be on the ballot for the general election must return to the Fund any unspent money in the candidate's publicly funded campaign account.

(2) *General election candidates.*

On or before December 31 after the general election, a participating candidate must return to the Fund any unspent money in the candidate's publicly funded campaign account.

(h) *Petition-nominated and non-principal political party candidates.*

- (1) In this subsection, "principal political party" has the meaning stated in State Election Law Article, § 1-101 {"Definitions: Principal political parties"}.

(2) A certified candidate nominated by petition or by a party that is not a principal political party may receive a public contribution for the general election if the candidate's nomination is certified by the City Board.

(3) A certified candidate under this subsection must qualify as a certified candidate at least 45 days before the date of the general election.

(Ord. 20-338)

**§ 11-18. Use of public contribution.**

(a) *In general.*

A participating candidate may only make expenditures from the publicly funded campaign account registered with the State Board for expenses incurred directly for the election after the candidate is certified.

(b) *Previous expenses or loans.*

A participating candidate may not use any portion of a public contribution to pay for expenses or loans incurred prior to being certified.

(c) *Advance payment.*

A participating candidate may not pay in advance for goods and services to be used after certification with non-qualifying contributions received before applying for certification.

(d) *Reduction of public contribution.*

(1) Except as provided in paragraph (2) of this subsection, the Director must reduce the public contribution to a participating candidate's publicly funded campaign account by the total amount of all expenditures made after the end of the previous election cycle from the candidate's non-participating campaign account.

(2) Expenditures made with contributions received prior to the end of the previous election cycle towards debts accrued before the end of the previous election cycle may not reduce the public contribution to a participating candidate's publicly funded campaign account.

(e) *Additional standards.*

(1) A participating candidate may not use a public contribution for:

- (i) personal expenses;
- (ii) expenses related to holding public office;
- (iii) paying for a personal endorsement; or
- (iv) paying for late filing fees.



(2) A participating candidate may not use a public contribution to :

- (i) contribute to current or future candidates for elective offices other than the one being sought by the participating candidate; or
- (ii) contribute to any entity or organization, such as a political party.

(3) The Director, in consultation with the Commission, shall determine whether an expense is a permissible use of a public contribution, and the Director's determination is final.

(f) *Allegations of a prohibited act.*

A complaint alleging a prohibited receipt or use of funds by a participating candidate must be filed with the State Board.

(g) *Access to records.*

(1) On request by the Commission, a participating candidate must provide the Commission with reasonable access to the financial records of the candidate's publicly funded campaign account.

(2) A participating candidate must keep all records for a period of 4 years after the election to which the documents relate.

(3) The records must be retained by the campaign treasurer unless the State Board has been notified otherwise.

(Ord. 20-338)

### **§ 11-19. Withdrawal.**

(a) *Certified candidates.*

A certified candidate may withdraw an application for a public contribution any time before the public contribution is received by the candidate's publicly funded campaign account.

(b) *Participating candidates.*

A participating candidate may withdraw from participating if the candidate:

- (1) files a statement of withdrawal with the State Board and the Commission on a form that the State Board requires; and
- (2) repays to the Fund the full amount of any public contribution received, plus interest accruing from the date of withdrawal at the same rate as the current bank prime loan rate reported by the Board of Governors of the Federal Reserve System.

(c) *Personal liability.*

If the funds remaining in the participating candidate's publicly funded campaign account at the time of withdrawal are insufficient to repay the Fund under subsection (b) of this section, the candidate is personally liable for repayment.

(d) *Reduced repayment.*

(1) The Director, in consultation with the Commission, may reduce any repayment under subsection (b) of this section for a participating candidate who must withdraw for health reasons or other cause not within the candidate's control.

(2) In considering a repayment reduction under this subsection, the Director, in consultation with the Commission, may consider the participating candidate's personal financial hardship.

(Ord. 20-338)

§ 11-20. *{Reserved}****PART 5. RESTRICTIONS; ENFORCEMENT*****§ 11-21. Restrictions on applicant and participating candidates.**(a) *In general.*

Except as provided in subsection (b) of this section, an applicant candidate or a participating candidate may not:

- (1) accept a private contribution from any group or organization, including a political action committee, a corporation, a labor organization, or a state or local central committee of a political party;
- (2) accept private contributions from an individual in an aggregate greater than \$150 during an election, or the maximum amount of an eligible contribution, as adjusted by §11-14(c) of this subtitle;
- (3) after filing a notice of intent with the State Board to seek public financing, pay for any campaign expense with any campaign finance account other than the candidates' publicly funded campaign account;
- (4) be a member of a slate in any election in which the candidate receives a public contribution; or
- (5) transfer money:
  - (i) to the candidate's publicly funded campaign account from any other campaign finance entity established for the candidate; or
  - (ii) from the candidate's publicly funded campaign account to any other campaign finance entity.

(b) *Affiliation.*

Pursuant to COMAR 33.13.14, a candidate who accepts a public contribution may affiliate with any other candidates, including non-publicly financed candidates, on campaign material if:

- (1) the authorized candidate campaign committee makes a direct disbursement to the payee for its share of the costs of the campaign material; and
- (2) the campaign material displays the authority line of the authorized candidate campaign committee.

(Ord. 20-338)

**§ 11-22. {Reserved}****§ 11-23. Enforcement by citation.**(a) *In general.*

In addition to any other civil or criminal remedy or enforcement procedure, this subtitle may be enforced by issuance of:

- (1) an environmental citation under City Code Article 1, Subtitle 40 {"Environmental Control Board"}; or
- (2) a civil citation under City Code Article 1, Subtitle 41 {"Civil citations"}.

(b) *Process not exclusive.*

The issuance of a citation to enforce this subtitle does not preclude pursuing any other civil or criminal remedy or enforcement action authorized by law.

(c) *Each day a separate offense.*

Each day a violation continues is a separate offense.

(Ord. 20-338)