

1 BY AUTHORITY

2 ORDINANCE NO. _____
3 SERIES OF 2018

COUNCIL BILL NO. CB18-0900
COMMITTEE OF REFERENCE:
4 Finance & Governance

5 A BILL

6
7 **For an ordinance submitting to a vote of the registered electors of the City and**
8 **County of Denver at a special municipal election to be held in conjunction with**
9 **the general election of November 6, 2018, a proposed change to the Denver**
10 **Revised Municipal Code concerning the creation of a dedicated fund to match**
11 **campaign donations of up to \$50 per donor to candidates who participate in a**
12 **matching fund program with lower donation limits.**
13

14 **BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

15 **Section 1.** There is hereby submitted to the registered electors of the City and County of
16 Denver for their approval or rejection at a special municipal election to be conducted at the same time
17 and in conjunction with the general election to be held in the City and County of Denver on November
18 6, 2018, a proposed change to the Denver Revised Municipal Code, as follows:

19 **Section 2.** That section 15-31, D.R.M.C. shall be amended by deleting the language stricken
20 and adding the language underlined, to read as follows:

21
22 **Sec. 15-31. - Purpose & Finding**

23 (a) As a home rule city under Article XX of the Colorado Constitution, the ~~council~~ people of
24 Denver hereby find and declare that preserving integrity and openness in the political process is a
25 matter of the highest public interest; that the people of Denver can be better served through a more
26 informed electorate; that the trust of the people is essential to representative government; and that
27 public disclosure and regulation of certain campaign contributions are necessary to promote public
28 confidence in government, to curb corruption and its appearance, and to protect the integrity of the
29 electoral process.

30 (b) The ~~council~~ people further find and declare that regulation of campaign contributions,
31 public disclosure of political spending, and establishment of a voluntary alternative source of
32 campaign financing in the form of limited public matching funds are required because the costs of
33 running political campaigns have dramatically escalated in recent years, leading to a public
34 perception that special interests and wealthy individuals may have undue influence on or access to
35 elected officials.

36 (c) It is the policy of the city to promote and encourage broad based citizen involvement in

1 the financing of election campaigns. The people further find and declare that providing public funds
2 to match small donations from city residents will give a greater voice to small donors, thereby
3 encouraging more citizens to get involved in the financing of election campaigns. It is also the intent
4 of this article to foster an open political process which allows incumbents and challengers alike to
5 compete in the marketplace of ideas on a fair and equitable basis. The people of Denver will best be
6 served by a process which promotes the fullest and most thorough discussion and debate of issues
7 and candidates.

8 (d) The Supreme Court held in Citizens United v FEC that "the public has an interest in
9 knowing who is speaking about a candidate shortly before an election," and in McCutcheon v FEC
10 that disclosure of political spending is "justified based on a governmental interest in provid[ing] the
11 electorate with information about the sources of election related spending." The people further find
12 and declare that full and timely disclosure of political spending referring to municipal candidates and
13 ballot issues preserves integrity and openness in the political process.

14 (e) The ~~council~~ people further find and declare that adequate enforcement of the provisions
15 of this article is required to protect public confidence in the political process.

16 (f) The people of Denver voted in 1974 to amend the Charter to provide for limitations on
17 political contributions and expenditures to be adopted by ordinance. This article modernizes and
18 further implements section 8.2.15 of the Charter.

19 **Section 2.** That section 15-32, D.R.M.C. shall be amended by deleting the language
20 stricken and adding the language underlined, to read as follows:

21

22 **Sec. 15-32. - Definitions.**

23 As used in this article, the following words and phrases shall have the following meanings, unless
24 otherwise clearly indicated by the context:

25 (a) *Candidate* shall mean any person who:

26 (1) Seeks election or re-election to any elected Charter office listed in Charter section
27 9.2.1(A) (the offices of mayor, auditor, clerk and recorder, and member of city council) and any
28 judge of the county court who seeks to be retained in office pursuant to Charter subdivision 4.1.5.
29 A person is a candidate for election upon the first to occur of the following:

30 a. The person has publicly announced an intention to seek election or re-election to office
31 and the person or a candidate committee authorized by the person has received contributions and
32 contributions in-kind or has made expenditures aggregating five hundred dollars (\$500.00) or more
33 during the election cycle; or

34 b. The person has filed nominating petitions pursuant to Charter section 8.2.7; or

1 c. The person has filed a declaration of intent to run for another term as judge under
2 Charter subdivision 4.1.5.

3 (2) As an incumbent, an unsuccessful candidate for office, or former office holder, still
4 has a cash balance of contributions or a debt or deficit or who receives contributions or
5 contributions in-kind.

6 (b) *Candidate committee* shall mean the committee authorized by a candidate to receive
7 contributions or contributions in-kind or make expenditures on behalf of such candidate. A
8 candidate shall have only one (1) candidate committee.

9 (c) *Commercial loan* shall mean any loan of money by a commercial lending institution
10 made in accordance with applicable law and in the ordinary course of business, but such loans
11 shall be made on a basis which assures repayment, evidenced by a written instrument, and
12 subject to a due date or amortization schedule, and shall bear the usual and customary interest
13 rate of the lending institution.

14 (d) *Contribution* shall mean a gift, loan, pledge or advance of money; guarantee or
15 endorsement of loan; or letter of credit or line of credit made by any person for the purpose of
16 influencing any election. "Contribution" includes, but is not limited to:

17 (1) A transfer of money between one (1) candidate or political committee and another
18 (which shall be a contribution to the committee which receives the money);

19 (2) The payment by any person of compensation for the personal services of another
20 person which are rendered to a committee;

21 (3) A payment made to a third party at the request of or with the prior knowledge of a
22 candidate, committee, or agent of either;

23 (4) A payment made after an election to meet any deficit or debt incurred during the
24 course of a campaign;

25 (5) A loan, other than a commercial loan, to a candidate or committee, up until the time
26 when the loan is fully paid. An unsecured loan shall be a contribution from the lender. A secured or
27 guaranteed loan shall be a contribution from the guarantor or person whose property secures the
28 loan; and

29 (6) An unpaid financial obligation which is forgiven.

30 "Contribution" does not include services provided without compensation by any individual who
31 volunteers on behalf of a candidate or committee. "Contribution" does not include any commercial
32 loan.

33 (e) *Contribution in-kind* shall mean a gift or loan of any item of real or personal property,
34 or any other thing of value, but not including money, made to or for any candidate or committee for

1 the purpose of influencing an election or for the purpose of disseminating newsletters related to
2 the scope of duties of an incumbent. "Contribution in-kind" does not include services provided
3 without compensation by any individual who volunteers on behalf of a candidate or committee or
4 an endorsement of candidacy or issue by any person. In determining the value to be placed on
5 contributions in-kind, a reasonable estimate of the fair market value shall be used.

6 (f) *Contributor* shall mean any person who makes a contribution or contribution in-kind.

7 (g) (1) *Controlled by or coordinated with a candidate committee or issue committee* means
8 a communication that refers to a candidate or ballot issue or ballot question when:

9 a. The communication is made in cooperation or consultation with, or at the request or
10 suggestion of, a candidate, or issue committee or agents of the candidate or committee, including
11 any general or particular understanding with, or pursuant to any non-public communication with,
12 the candidate, committee, or agents;

13 b. The communication is made by a person or committee that was directly or indirectly
14 formed by, or at the request of, the candidate or issue committee or agents of the candidate or
15 committee, or by a person or committee that is established, financed, directed or controlled by a
16 member of the immediate family of the candidate; or

17 c. The candidate, issue committee, or agents of the candidate or committee solicit funds or
18 appear at fundraising events on behalf of the person or committee making the communication
19 during the same election cycle as the communication is made.

20 (2) No communication shall be considered controlled by or coordinated with a candidate or
21 issue committee if it is a news story, commentary, or editorial distributed through the facilities of
22 any broadcasting station, newspaper, magazine, or other periodical publication, unless such
23 facilities are owned or controlled by any political party, political committee, or candidate or the
24 communication is a candidate or issue debate or promotion materials for such a debate.

25 (3) Any communications referring to a candidate or ballot issue or ballot question that are
26 controlled by or coordinated with a candidate or issue committee or their agents pursuant to this
27 section are deemed to be contributions to the candidate or issue committee and are subject to all
28 contribution limits and prohibitions in section 15-37 and reporting requirements in sections 15-35.

29 (h) *Election* shall mean any city general election or runoff election; any special election
30 held to elect Charter officers listed in Charter section 9.2.1(A), held under Charter section 1.1.13
31 or 9.7.9, or at which an issue is submitted to the electorate as required by part 3 of article VIII of
32 the Charter; any election at which a Charter amendment or the question of issuing bonds is
33 submitted to the electorate; or any election held under Article X, Section 20, paragraph (3) of the
34 Colorado Constitution.

1 (i) *Election cycle* shall mean;

2 (1) For the candidates of mayor, auditor, clerk and recorder, and member of city council,
3 the period from January 1 of the year following a general municipal election held to elect Charter
4 officers listed in Charter section 9.2.1 through December thirty-first of the next year in which such
5 an election is held.

6 (2) For judges in their first term, the date from appointment as a judge through December
7 thirty-first of the year in which the judge is subject to a retention election as required by subdivision
8 4.1.5 of the Charter.

9 (3) For judges in other terms, the period from January first of the year following the last
10 election for retention of the judge through December thirty-first of the year in which the next
11 retention election is held.

12 (4) For any vacancy election, the election cycle shall end on December thirty-first of the
13 year in which the vacancy election is held and a new election cycle shall begin on January first of
14 the following year, and shall end on December thirty-first of the next year in which a general
15 municipal election is held; and

16 (5) For any ballot issue or ballot question, the calendar period from January first through
17 December thirty-first during which the issue or question is on the ballot.

18 (j) *Electioneering communication* shall mean any communication broadcasted by
19 television or radio, printed in a newspaper or on a billboard, directly mailed or delivered by hand to
20 personal residences, placed on a website, streaming media service, or online forum for a fee, or a
21 pre-recorded audio message delivered by telephone, that:

22 (1) Unambiguously refers to any candidate, ballot issue or ballot question; and

23 (2) Is broadcast, printed, mailed, delivered, posted or otherwise distributed in the period
24 beginning sixty (60) days before a general municipal election until the run-off election, or within
25 thirty (30) days of a special or vacancy election; and

26 (3) Is broadcast to, printed in a newspaper distributed to, mailed or delivered by hand to,
27 targeted online to, or posted on a billboard to an audience that includes members of the electorate
28 for the candidate, ballot issue or ballot question.

29 (4) Electioneering communication does not include:

30 a. Any news articles, editorial endorsements, opinion or commentary writings, or letters to
31 the editor printed or digitally published in a newspaper, magazine or other periodical not owned or
32 controlled by a candidate or political party;

33 b. Any editorial endorsements or opinions aired by a broadcast facility not owned or
34 controlled by a candidate or political party; or

1 c. Any communication by persons, other than committees, made in the regular course
2 and scope of their business or any communication made by a membership organization solely to
3 members of such organization and their families.

4 (5) An electioneering communication is made when the actual spending occurs or when
5 there is a contractual agreement requiring such spending and the amount is determined.

6 (k) *Expenditure* shall mean the purchase, payment, distribution, loan, advance, deposit or
7 gift of money or anything of value, made by any person for the purpose of influencing an election.
8 Expenditure includes a transfer of money between one (1) committee and another (which shall be
9 an expenditure by the committee that transfers the funds). An expenditure occurs when the actual
10 payment is made. A written contract, promise or agreement to make an expenditure shall be
11 considered and reported as an unpaid obligation if payment is thirty (30) days or more overdue.

12 (l) *Independent expenditure* shall mean an expenditure made by any person for the
13 purpose of expressly advocating the election or defeat of a candidate or supporting or opposing a
14 ballot issue or ballot question that is not controlled by, or coordinated with, any candidate or issue
15 committee or agent of a candidate or issue committee.

16 (1) Independent expenditure does not include:

17 a. Any news articles, editorial endorsements, opinion or commentary writings, or letters to
18 the editor printed in a newspaper, magazine or other periodical not owned or controlled by a
19 candidate;

20 b. Any editorial endorsements or opinions aired by a broadcast facility not owned or
21 controlled by a candidate;

22 c. Any communication by persons made in the regular course and scope of their business
23 or any communication made by a membership organization solely to members of such
24 organization and their families.

25 (2) Any expenditure that is controlled by, or coordinated with, a candidate or issue
26 committee or agent of a candidate or issue committee, is deemed to be both a contribution by the
27 maker of the expenditure and an expenditure by the candidate or issue committee.

28 (3) An independent expenditure is made when the actual spending occurs or when there
29 is a contractual agreement requiring such spending and the amount is determined.

30 (m) *Issue committee* shall mean any committee, club, association, corporation, or other
31 group of persons which receives contributions or contributions in-kind aggregating five hundred
32 dollars (\$500.00) or more during an election cycle and makes expenditures aggregating five
33 hundred dollars (\$500.00) or more during an election cycle for the major purpose of supporting or
34 opposing one (1) or more ballot issues or ballot questions. Issue committee does not include

1 political parties, political committees, or candidate committees as otherwise defined in this section.

2 (n) *Person* shall have the same meaning as contained in section 1-2(12) of the Revised
3 Municipal Code.

4 (o) *Political committee* shall mean any committee, club, association, local political party,
5 or other group of persons not authorized by a candidate and formed for the major purpose of
6 making contributions to candidate, issue, or political committees, which receives contributions or
7 contributions in-kind aggregating five hundred dollars (\$500.00) or more during an election cycle
8 and which makes expenditures aggregating five hundred dollars (\$500.00) or more during an
9 election cycle. Political committee includes a committee, club, association or other group which
10 solicits contributions or contributions in-kind and places such contributions or contributions in-kind
11 in its treasury for distribution to candidate, issue, or political committees. Political committee does
12 not include a committee, club, association or other group which solicits individual contributions and
13 passes those contributions along to candidate, issue, or political committees without placing the
14 contributions in its own treasury prior to distribution to a political committee.

15 (p) “Small donor committee” means any political committee that has accepted
16 contributions only from natural persons who each contributed no more than fifty dollars in the
17 aggregate per year. “Small donor committee” does not include political parties, issue
18 committees, or candidate committees.

19 **Section 3.** That Sec. 15-37 of the Denver Revised Municipal Code shall be amended
20 by deleting the language stricken and adding the language underlined, to read as follows:

21

22 **Sec. 15-37. - Limitations on contributions and contributions in-kind.**

23

24 (a)(1) For any particular election cycle, no person shall make contributions or contributions
25 in-kind to a candidate and his or her candidate committees that, in the aggregate, exceed the
26 following amounts:

Office	Amount
Mayer	\$3,000.00
Auditor	\$2,000.00
Councilmember at large	\$2,000.00
Judge	\$2,000.00
Clerk and Recorder	\$2,000.00
District councilmember	\$1,000.00

<u>Office</u>	<u>Amount</u>
<u>Mayor</u>	<u>\$1,000.00</u>
<u>Auditor</u>	<u>\$700.00</u>
<u>Councilmember at large</u>	<u>\$700.00</u>
<u>Judge</u>	<u>\$700.00</u>
<u>Clerk and Recorder</u>	<u>\$700.00</u>
<u>District councilmember</u>	<u>\$400.00</u>

2

3 For purposes of this subsection, the aggregate limits shall not apply to transfers between
4 candidate committees when both candidate committees are authorized by the same candidate(s).
5 Further, the aggregate limits shall not apply to transfers between a joint candidate committee and
6 the candidate committee of one (1) of its candidates. For the purposes of transferring money
7 between candidate committees that are authorized by the same candidate, it is not a violation of
8 D.R.M.C. § 15-32(b) if a candidate creates a new candidate committee for another city office,
9 transfers money from the original committee to the new committee, and then closes the original
10 committee no later than ten (10) days after such transfer is made.

11 (2) Except for entities registered as committees pursuant to section 15-34, it shall be
12 unlawful for any unincorporated association, corporation, limited liability company,
13 partnership, limited political partnership, or labor organization to make contributions to a
14 candidate committee and no candidate committee shall accept any contribution from these
15 entities.

16 (3) Each election-cycle limit on contributions and contributions in-kind described in
17 subsection (a)(1) of this section shall be adjusted by an amount based upon the percentage
18 change over a four-year period in the United States bureau of labor statistics consumer price
19 index for Denver- Boulder-Greeley, all items, all consumers, or its successor index, rounded
20 to the nearest lowest five dollars. The first adjustment shall be done in the second quarter of
21 2024 and then every four years thereafter. The clerk and recorder shall calculate such an
22 adjustment in each limit and specify the limits in rules promulgated in accordance with section
23 15-46.

24 (b) No candidate committee shall accept any contribution or contribution in-kind
25 from any person if that person's contributions or contributions in-kind on behalf of the
26 candidate have an aggregate amount or value in excess of the amounts listed in section 15-
27 37(a). Any contribution or contribution in-kind or portion thereof that exceeds the limits in

1 section 15-37(a) shall be returned to the contributor within seventy-two (72) hours of receipt.

2 (c) The limitations imposed by subsections (a) and (b) of this section shall not
3 apply to contribution of a candidate's personal funds to the candidate's own campaign, or to
4 any loan which is personally guaranteed by the candidate or is secured by property owned
5 by the candidate.

6 (d) No person shall make a contribution to a political committee that equals or exceeds
7 fifty dollars (\$50.00) in currency or coin. Any portion of a contribution in currency or coin of fifty
8 dollars (\$50.00) or more shall be remitted by the treasurer to the clerk and recorder no later than
9 seventy-two (72) hours after receipt, for deposit by the clerk and recorder into the ~~general fund of~~
10 ~~the city~~ Fair Elections Fund of the city.

11 (e) Any portion of an anonymous contribution of fifty dollars (\$50.00) or more
12 received by a political committee shall be remitted by the treasurer to the clerk and recorder
13 no later than seventy-two (72) hours after receipt, for deposit by the clerk and recorder into
14 the ~~general fund of the city~~ Fair Elections Fund of the city.
15

16 **Section 4.** That Article III of Chapter 15, D.R.M.C., concerning Campaign Finances shall be
17 amended by dividing the Article into two Divisions. Division 1 shall be captioned "DIVISION 1 –
18 GENERAL CAMPAIGN FINANCE REGULATIONS" and shall consist of sections 15-31 through
19 15-47 of Article III, and a new Division 2 shall be added to Article III, to read as follows:
20

21 **DIVISION 2. – DENVER FAIR ELECTIONS ACT**

22 **Section 15-48. - Purpose and Findings.**

23
24 This division shall be known as the Denver Fair Elections Act. Its purpose is to advance the
25 findings and declarations articulated by the people of Denver in Section 15-31 of the Denver
26 Municipal Code.
27

28 **Section 15-49. - Definitions.**

29
30 (a) As used in this division, the following words and phrases shall have the following
31 meanings, unless otherwise clearly indicated by the context:

32 (1) "*Fund*" means the Fair Elections Fund created by Sec. 15-52.

33 (2) "*Match-eligible contribution*" means any contribution subject to the limits in Sec.
34 15-54 to a participating candidate from a Denver resident who is a natural person, not to

1 exceed fifty dollars per contributor.

2 (3) “*Participating candidate*” means a candidate running in a general or special
3 election for the office of Mayor, City Council, Clerk and Recorder, Judge, and Auditor who
4 has been certified by the clerk and recorder to participate in the Fair Elections Campaign
5 Funding program.

6 (4) “*Qualifying contribution*” means a contribution received during the qualifying
7 period of at least five dollars, but not greater than the limits in Sec. 15-54, to a candidate
8 running for the office of Mayor, Judge, City Council, Clerk and Recorder, and Auditor from a
9 Denver resident who is a natural person.

10 (5) “*Qualifying period*” means the period beginning on the January 1 immediately
11 following the most recent election for the specific office and ending fifty (50) days before the
12 election date. The qualifying period for any special or vacancy election starts the day that
13 notice has been made for the special or vacancy election and ends on the date of
14 certification or fifty (50) days before the election date.

15

16 **Sec. 15-50. - Severability.**

17

18 (a) The provisions of this division and each of its sections, paragraphs,
19 subparagraphs, sentences, and clauses are severable. If any such provision is held to be
20 invalid or unenforceable by any judicial or administrative tribunal, it is the intent of the people
21 of Denver that all other provisions thereof shall remain in full force and effect.

22

23 **Sec. 15-51. - Fair Elections Fund.**

24

25 (a) *Establishment of the Fair Elections Fund.* A special, dedicated Fair Elections
26 Fund is established for the purpose of:

27 (1) Providing public financing for the election campaigns of certified
28 participating candidates; and

29 (2) Paying for the administrative costs of City staff related to the Fair Elections Act
30 public campaign funding program.

31 (b) *Appropriations to the Fair Elections Fund.*

32 (1) The city shall annually appropriate \$2.88 per City of Denver resident per year,
33 as determined by the most recent official United States Census Bureau Population Estimate
34 for the City of Denver, from the City General Fund to the Fair Elections Fund. The Mayor

1 and Council's duty to appropriate funds for the public financing program shall cease upon
2 the termination of the public financing program. Appropriations to the Fund shall be
3 encumbered to satisfy the obligation created by subsection (a) of this section pursuant to
4 Charter Sec. 7.2.3 until the maximum amount allowed in the Fair Elections Fund is reached
5 pursuant to subsection (b)(3) of this section.

6 (2) Other sources of revenue in the Fund shall include:

- 7 a. Unspent funds distributed to any participating candidate who does not remain
8 a candidate until the election for which they were distributed, or such funds that remain
9 unspent by a participating candidate;
- 10 b. Other funds appropriated by the Mayor and City Council;
- 11 c. Unexpended campaign contributions from any candidate or political committee.
- 12 d. Any interest generated by the Fund; and
- 13 e. Any other sources of revenue determined as necessary by the City Council.

14 (3) The amount in the Fair Elections Fund shall not exceed \$8 million. To comply
15 with this limitation, revenue that would otherwise be deposited in the Fair Elections Fund
16 pursuant to subsections (a) and (b) shall instead be deposited in the General Fund.

17 (4) The City Council may, by adoption of an ordinance by not less than a two-thirds
18 vote of its membership, make an official declaration of fiscal emergency and suspend or
19 reduce the amount of the annual appropriation specified in this subsection.

20 a. Any such ordinance suspending or reducing the annual appropriation
21 shall be effective for no more than one year.

22 (c) *Periodic Adjustments to Appropriations.* The dollar amounts specified in
23 subsection (b) of this section and the aggregate amounts in Sec. 15-56 (b) shall be adjusted by
24 an amount based upon the percentage change over a four-year period in the United States
25 bureau of labor statistics consumer price index for Denver- Boulder-Greeley, all items, all
26 consumers, or its successor index, rounded to the nearest lowest five dollars. The first
27 adjustment shall be done in the second quarter of 2024 and then every four years thereafter.
28 The clerk and recorder shall calculate such adjustments.

29

30 **Sec. 15-52. - Offices Covered.**

31

32 (a) Candidates for the office of Mayor, City Council, Clerk and Recorder, Judge, and
33 Auditor shall be eligible to participate in the public campaign financing program established
34 by this division, pursuant to the restrictions, requirements, and provisions specific to these

1 respective offices.

2

3 **Sec. 15-53. - Eligibility for Fair Elections Campaign Funding.**

4

5 (a) To be eligible to be certified as a participating candidate, a candidate must:

6 (1) Before the end of the qualifying period for the election involved, file with the clerk
7 and recorder an application for certification as a participating candidate, containing the identity
8 of the candidate, the office that the candidate seeks, and the candidate's signature, under
9 penalty of perjury, certifying that:

10 a. The candidate has complied with the restrictions of this chapter during the
11 election cycle to date;

12 b. The candidate's campaign committee has filed all campaign finance reports
13 required by law during the election cycle to date and that they are complete and accurate;
14 and

15 c. The candidate will comply with the requirements of this division during the
16 remainder of the election cycle and, specifically, if certified as a participating candidate,
17 will comply with the requirements applicable to participating candidates.

18 (2) Before the close of the qualifying period, ensure that the following number of
19 qualifying contributions from unique contributors have been collected by the candidate or the
20 candidate's campaign committee;

21 a. For the office of Mayor: 250.

22 b. For the office of City Council, Auditor, Judge, or Clerk and Recorder: 100.

23 (3) Ensure that each qualifying contribution shall be acknowledged by a receipt to the
24 contributor, with a copy retained by the candidate for a period of two (2) years after the
25 election for which he or she is a candidate. The receipt shall include the contributor's printed
26 name, home address, and telephone number, if any, and the name of the candidate on whose
27 behalf the contribution is made. In addition, the receipt shall indicate that the contributor
28 understands that the purpose of the contribution is to help the candidate qualify for Fair
29 Elections campaign funding, that the contribution up to \$50 will be matched by the Fund by
30 900 percent, and that the contribution is made without coercion or reimbursement. A copy of
31 completed receipts for all qualifying contributions shall be submitted with the application for
32 certification as a participating candidate, and any contribution for which a candidate has not
33 obtained a fully completed receipt shall not be counted as a qualified contribution. This
34 application shall include a signed statement from the candidate indicating that all information

1 on the qualifying contribution receipts is complete and accurate to the best of the candidate's
2 knowledge.

3 (4) After ballot certification, be in a race with at least one other candidate for that
4 office.

5

6 **Sec. 15-54. - Requirements for Participation in the Fair Elections Program**

7

8 (a) Except as provided in subsection (g) of this section, participating candidates and
9 candidates seeking certification may not accept contributions from natural persons above
10 these limits.

11

Mayor	\$500
Councilmember-at-large, Judge, Clerk and Recorder, Auditor	\$350
District councilmember	\$200

12

13 (b) Participating candidates and candidates seeking certification may accept
14 contributions only from natural persons or a small donor committee, as defined in section 15-
15 32 (p), and may not accept contributions from any local, state, or federal issue, candidate, or
16 political committee. A participating candidate or a candidate seeking certification may not
17 accept contributions from a small donor committee in the aggregate in excess of ten times
18 the contribution limit for participating candidates for the office that the candidate seeks.

19 (c) Participating candidates shall obtain and maintain and issue receipts for all
20 match-eligible contributions retained by the candidate for a period of two (2) years after the
21 election. The receipt shall include the contributor's printed name, home address, and
22 telephone number, if any, and the name of the candidate on whose behalf the contribution is
23 made. In addition, the receipt shall indicate that the contributor understands that the
24 contribution up to \$50 will be matched by the Fund by 900 percent, and that the contribution
25 is made without coercion or reimbursement.

26 (d) Participating candidates and candidates seeking certification shall obtain and
27 furnish to the clerk and recorder any information the clerk may request relating to campaign
28 expenditures or contributions and furnish such documentation and other proof of compliance
29 with this chapter as may be requested by the clerk; and

30 (e) (1) Participating candidates must agree to participate in at least two public debates with

1 opponents in the general election and at least one public debate with the opponent in a run-off
2 election if offered. For purposes of this section, a "debate" means the moderated reciprocal
3 discussion of issues among candidates on the ballot for the same office. If there is only one
4 candidate for a given office on the ballot, then no debate for that given office shall be held
5 pursuant to this section.

6 (2) Each debate held pursuant to this section shall be at least one hour's duration. The
7 Clerk and Recorder's office shall select one or more sponsors for each debate required pursuant
8 to this section. Organizations that are not affiliated with any political party or with any holder of or
9 candidate for public office and that have not endorsed any candidate in the election shall be
10 eligible to sponsor one or more of the required debates. The rules for conducting such debates,
11 and the date, time, and location of such debates, shall be solely the responsibility of the
12 organizations selected but shall not be made final without consultation with the Clerk and
13 Recorder's office.

14 (3) Written applications by organizations to sponsor a debate shall be submitted to the
15 Clerk and Recorder's office on a form provided by the Clerk not later than a date chosen by the
16 Clerk and Recorder in any year in which a municipal election is held with the parameters that the
17 debate takes place after the ballot is certified and before ballots are mailed. The written
18 application shall:

19 (i) Demonstrate that the organization and any proposed co-sponsor meet the criteria
20 established in this section;

21 (ii) Specify any elections and offices for which the organization seeks to sponsor
22 debates;

23 (iii) Set forth proposed dates, times, durations, and locations of the debates and the
24 specific and exclusive circumstances under which the dates or times may be changed, together
25 with a provision for when the rescheduled debates will be held;

26 (iv) Provide a detailed description of the format and ground rules for the debates;

27 (v) Verify that the staging, promotion, and coverage of the debates shall be in
28 conformance with all applicable laws;

29 (vi) Include an agreement to indemnify the city for any liability arising from the acts or
30 omissions of the sponsor; and

31 (vii) Set forth plans for publicity and for broadcast and other media coverage for the
32 debates.

33 (f) Participating candidates and candidates seeking certification must comply with
34 all requirements for candidate affidavits, organization, registration, and reporting for

1 candidate committees in Sections 15-33 and 15-35.

2 (g) Participating candidates may not donate to their own campaigns in an
3 aggregate amount greater than the limits in Section 15-54(a). However, a participating
4 candidate may personally loan his or her own campaign seed money up to five thousand
5 dollars (\$5,000). Any money loaned must be repaid by the campaign from the account that
6 does not include public monies. Any portion of the loan not repaid is deemed a contribution
7 and must comply with applicable contribution limits and reporting requirements.

8 (h) Participating candidates must refund any unexpended money received from the
9 Fair Elections fund back to the Fair Elections fund no later than sixty (60) days after the
10 candidate publicly announces or notifies the clerk and recorder of their withdrawal from the race,
11 or by the last day in the election cycle, whichever occurs first.

12 (i) Participating candidates must maintain and certify to the clerk and recorder two
13 separate bank accounts. The candidate must use one bank account for all public monies
14 received from the fund and a second account for all other campaign loans and contributions.
15 The restrictions contained in section 15-38 apply to both accounts maintained in accordance
16 with this provision.

17
18 **Sec. 15-55. - Certification of Participating Candidates by Clerk and Recorder.**

19
20 (a) No later than ten (10) business days after a candidate files with the clerk and
21 recorder an application for certification as a participating candidate, the clerk and recorder
22 shall notify the candidate whether the application is approved.

23 (b) If the clerk and recorder determines that a candidate is not certified, the
24 candidate is not required to comply with provisions of this division applicable only to
25 participating candidates as of the date of the Clerk's notice.

26 (c) The clerk and recorder's determination on the application for certification is a
27 final action subject to judicial review.

28 (d) A participating candidate's initial request for funds from the Fair Elections Fund
29 within the application for certification as a participating candidate shall be made using a form
30 prescribed by the clerk and recorder and shall be accompanied by qualifying contribution
31 receipts and any other information the clerk and recorder deems necessary. The clerk and
32 recorder shall verify that a candidate's qualifying contributions meet all the requirements and
33 restrictions of this division before the disbursement of funds from the Fair Elections Fund to the
34 candidate.

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Sec. 15-56. - Fair Elections Fund Payments.

(a) Participating candidates shall receive payment of funds from the Fair Elections Fund equal to nine-hundred percent (900 percent) of the amount of match-eligible contributions up to \$50 received by the candidate during the election cycle with respect to a single election, subject to the aggregate limit on the total amount of Fair Elections Fund payments to a candidate specified in subsection (b). The maximum match is \$50 per donor per candidate in an election cycle.

(b) The aggregate amount of Fair Elections Fund payments that may be made to a participating candidate during an election cycle may not exceed:

- (1) \$750,000 for a candidate running for the office of Mayor;
- (2) \$250,000 for a candidate running for the office of Councilmember-at-large, Clerk and Recorder, Judge or Auditor; and
- (3) \$125,000 for a candidate running for a District councilmember.

(c) The clerk and recorder must authorize payments in accordance with the following schedule:

- (1) The clerk must authorize payment of the eligible monies on the August 15 immediately preceding the regularly scheduled municipal general election;
- (2) Subsequent payments must be authorized in conjunction with the due date of the campaign finance reports filed by candidates during the year of a regularly scheduled municipal general election;
- (3) The clerk must authorize payment of any remaining eligible monies due to the candidate on the fourteenth day before the election.

(d) The clerk and recorder shall provide each participating candidate with a written determination specifying the basis for any non-payment of funds from the Fair Elections Fund. The clerk and recorder shall provide participating candidates with a process by which they may immediately upon receipt of such determination petition the clerk and recorder for reconsideration of any such non-payment and such reconsideration shall occur within five business days of the filing of such petition.

Sec. 15-57. - Run-off Elections.

Notwithstanding any other provision of this division, a participating candidate in a run-off

1 election held pursuant to Article VIII Part 2. Section 8.2.21 and Part 3. Section 8.3.5 of the
2 Denver Charter shall obtain prompt payment for qualified campaign expenditures in an amount
3 equal to twenty-five cents for each one dollar of public funds paid pursuant to this chapter to
4 the candidate's principal committee for the preceding election. Run-off funds do not count
5 against the aggregate limit in Section 15-54.

6
7 **Sec. 15-58. - Insufficient Funds in the Program.**

8
9 If the clerk and recorder determines that there are insufficient funds in the Fair Elections Fund
10 to fund adequately all participating candidates, the clerk and recorder shall notify participating
11 candidates that the clerk and recorder will not likely be capable of distributing to all
12 participating candidates the maximum aggregate amount of Fair Elections Fund payments
13 permissible under Sec. 15-54. Under such circumstances, at such time as the clerk and
14 recorder is unable to fulfill a valid application for funds from the Fair Elections Fund submitted
15 by a participating candidate pursuant to Sec. 15-53(a) and 15-54 the participating candidate
16 may solicit for such candidate's committee and accept contributions under the limit for
17 candidates not participating in the program, and is no longer subject to the requirements for
18 participating candidates in Sections 15-53 and 15-54.

19
20 **Sec. 15-59. - Duties of the clerk and recorder - Violations-Persons Ineligible for Public**
21 **Funds-Time Limit.**

- 22
23 (a) The clerk and recorder shall:
- 24 (1) Adopt rules and regulations if necessary for the implementation of this division of
25 Article III. Such rules shall be promulgated in accordance with D.R.M.C Chapter 2 Article VI.
 - 26 (2) Prescribe forms and provide instructional materials for reports required to be filed by
27 this division.
 - 28 (3) Preserve and maintain all such submissions pursuant to this division and make them
29 available for inspection and copying under the requirements of the state Public Records Act, and
30 maintain an online repository of all information filed pursuant to this division which may be
31 accessed by the public through the Clerk's website.
 - 32 (4) Notify any committee or person involved if the clerk and recorder makes a
33 determination of an apparent violation of this division, or if a written complaint about the committee
34 or person is filed with the clerk and recorder pursuant to section 15-40 regarding compliance with

1 this division.

2 (5) Audit the filings or submissions of various candidate committees as needed to
3 ensure that the committees fully comply with the provisions of this division.

4 (b) Complaints and duties of the clerk and recorder regarding potential violations of this
5 article shall be governed by the provisions in Sec. 15-40 and 15-41.

6 (c) If a participating candidate violates any portion of this division, the candidate, in the
7 hearing officer's discretion, may be ordered to return any public matching funds previously
8 received, may be ineligible to receive any further matching funds for that election, and may be
9 subject to a civil penalty.

10

11 **Section 15-60. - Effective date and applicability.**

12

13 (a) This bill takes effect only upon the withdrawal of the "Democracy for the People"
14 initiative from the ballot for the special municipal election to be held at the same time and in
15 conjunction with the November 6, 2018, general election and applies to all municipal elections
16 beginning with the municipal election cycle beginning on January 1, 2020.

17

18 **Section 5.** The ballot for said election must contain the following title and submission
19 clause:

20

REFERRED QUESTION

21

22 "Shall the voters of the City and County of Denver adopt an amendment to the Denver Revised
23 Municipal Code banning corporations and other entities from donating directly to candidates,
24 lowering contribution limits, and adopting a new division to Article III of Chapter 15 of the Denver
25 Revised Municipal Code creating the Fair Elections Fund within the City's general fund, capped at
26 8 million dollars per four-year election cycle, as appropriated by City Council and the Mayor, to
27 match donations of 50 dollars or less at a ratio of 9 to 1 to candidates who voluntarily agree to
28 raise money in lower amounts and take contributions only from natural persons and from
29 committees that take contributions only from natural persons who each contribute no more than 50
30 dollars in the aggregate per year?

31

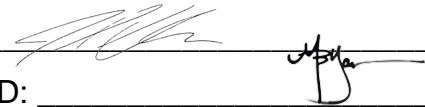
32 **Section 6.** Each elector voting at the election and wishing to vote for or against the
33 amendment must indicate the elector's choice by indicating "YES" or "NO" on the ballot.

34

1 **Section 7.** The officials of the City and County of Denver charged with duties relating to the
2 election must, before the election, issue such calls, make such certifications and publications, give
3 such notices, make such appointments, and do all such other acts and things in connection with
4 the submission of this code amendment to the registered electors of the City and County of
5 Denver at the election required by the Constitution and laws of the State of Colorado and the
6 Charter and ordinances of the City and County of Denver.

7
8 **Section 8.** The ballots cast at such election must be canvassed and the results
9 ascertained, determined, and certified in accordance with the requirements of the Constitution and
10 laws of the State of Colorado and the Charter and ordinances of the City and County of Denver.

11
12 COMMITTEE APPROVAL DATE: August 14, 2018
13 MAYOR-COUNCIL DATE: N/A
14 PASSED BY THE COUNCIL August 27, 2018

15 _____ - PRESIDENT
16 APPROVED:  - MAYOR Aug 28, 2018
17 ATTEST: _____ - CLERK AND RECORDER,
18 EX-OFFICIO CLERK OF THE
19 CITY AND COUNTY OF DENVER
20

21 NOTICE PUBLISHED IN THE DAILY JOURNAL _____ ; _____

22
23 PREPARED BY: Troy C. Bratton DATE: August 16, 2018

24
25 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the
26 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
27 ordinance. The proposed ordinance **is not** submitted to the City Council for approval pursuant to §
28 3.2.6 of the Charter.
29

30 Kristin M. Bronson, Denver City Attorney

31
32 BY: , Assistant City Attorney DATE: Aug 16, 2018