

1 **BY AUTHORITY**

2 ORDINANCE NO. _____
3 SERIES OF 2010

COUNCIL BILL NO. 10-0853
COMMITTEE OF REFERENCE:

4 Government Affairs & Finance Committee

5 **A B I L L**

6 **For an ordinance amending Article III of Chapter 15 of the Revised Municipal**
7 **Code concerning campaign finances.**

8 **WHEREAS**, pursuant to § § 8.1.2 (E) and (F), the Clerk and Recorder is vested with
9 exclusive authority for the conduct of elections, and will perform such other duties as may be
10 required by the charter or by ordinance.

11 **WHEREAS**, pursuant to § 8.2.15 of the Denver Charter, the regulation of campaign
12 contributions and expenditures related to city and county elections will be provided by ordinance;
13 and

14 **WHEREAS**, the Clerk has determined that it is necessary to modify Article III of Chapter 15 in
15 order to enhance the regulation of campaign finances.

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

17 **Section 1.** That subsections (1)(a), (8) and (11) of section 15-32, D.R.M.C. will be amended
18 by adding the language underlined and deleting the language stricken, and that a new subsection
19 (9.5) will be added to said section 15-32, all to read as follows:

20 **Sec. 15-32. Definitions.** As used in this article, the following words and phrases shall have
21 the following meanings, unless otherwise clearly indicated by the context:

22 (1) *Candidate* shall mean any person who:

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

- 28 • The person has publicly announced an intention to seek election or re-
29 election to office and the person or a candidate committee authorized by
30 the person has received contributions and contributions in-kind or has
31 made expenditures aggregating ~~in excess of~~ five hundred dollars (\$500.00)
32 or more during the election cycle; or
- 33 • The person has filed nominating petitions pursuant to Charter section 8.2.7;
34 or

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

(8) For the candidates of mayor, auditor, clerk and recorder, and member of city council, *election cycle* shall mean the period from January 1 of the year following a general municipal election held to elect Charter officers listed in Charter section 9.2.1 through December thirty-first of the next year in which such an election is held. For judges in their first term, *election cycle* shall mean the date from appointment as a judge through December thirty-first of the year in which the judge is subject to a retention election as required by subdivision 4.1.5 of the Charter. For judges in other terms, *election cycle* shall mean the period from January first of the year following the last election for retention of the judge through December thirty-first of the year in which the next retention election is held. For any vacancy election, the *election cycle* shall end on December thirty-first of the year in which the vacancy election is held and a new *election cycle* shall begin on January first of the following year, and shall end on December thirty-first of the next year in which a general municipal election is held. For any ballot issue or ballot question, *election cycle* shall mean the calendar period from January first through December thirty-first.

(9.5) *Issue committee* shall mean a political committee as defined by section 15-32(11), D.R.M.C.

(11) *Political committee* shall mean any committee, club, association or other group of persons which receives contributions or contributions in-kind aggregating ~~in excess of~~ five hundred dollars (\$500.00) or more during an election cycle and which makes expenditures aggregating ~~in excess of~~ five hundred dollars (\$500.00) or more during an election cycle. *Political committee* shall include a separate political education or political action fund or committee which is associated with an organization or association formed principally for some other purpose and shall include an organization or association formed principally for some other purpose insofar as it receives contributions or contributions in-kind or makes expenditures for the purpose of influencing an election. *Political committee* includes a committee, club, association or other group which solicits contributions or contributions in-kind and places such contributions or contributions in-kind in its treasury for distribution to campaigns. *Political committee* does not include a committee, club, association or other group which solicits individual contributions and passes those contributions along to campaigns without placing the contributions in ~~the~~ its own treasury prior to distribution to a of the political committee.

SECTION 2. That subsection 15-33(a), D.R.M.C. will be amended by adding the language underlined and deleting the language stricken to read as follows:

Sec. 15-33. Candidate affidavit, reporting, and disclosure.

(a) Within ten (10) days after becoming a candidate as defined in section 15-32(1) a., each candidate shall certify by affidavit filed with the ~~city clerk~~ clerk and recorder that the person is familiar with the provisions of this article.

SECTION 3. That subsections (b)(1), (b)(2), (d)(3), (d)(4),(d)(6),and (d)(9) of section 15-35, D.R.M.C. will be amended adding the language underlined and deleting the language stricken, and

1 that a new subsection (i) will be added to said section 15-35, all to read as follows:

2 **Sec. 15-35. Reporting requirements.**

3 (b) For years in which there is an election which the political committee seeks to influence
4 by making contributions, contributions-in-kind, or expenditures, the treasurer shall file the
5 following reports:

6 (1) For the calendar year in which there is a general city and county election and run-off
7 election the following reports shall be filed by any candidate for office, any treasurer of
8 an issue committee, or by any incumbent officeholder who is seeking re-election:

9 (2) For each month prior to a special election, beginning in the month that candidacy is
10 declared or an issue committee becomes a political committee as defined by section
11 15-32(12) of this article, the following reports shall be filed by any candidate for the
12 office or offices to be determined at the special election or any treasurer of an issue
13 committee seeking to influence an election:

14 a. Monthly reports for each month prior to the month before the special election
15 which shall be complete through the last day of the month and which shall be
16 filed no later than the fifth day of the following month;

17 b. A pre-election report, which shall cover the period beginning the first day of the
18 month before the month in which the special election is to be held and which
19 shall be complete through the Wednesday prior to the special election and
20 which shall be filed no later than the Thursday prior to the special election;

21 c. A post-election report, which shall be filed no later than the thirtieth day after
22 the special election, and which shall be complete ~~through~~ beginning with the
23 Thursday prior to the special election through the twenty-fifth day after the
24 special election; and

25 d. A year-end report, which shall be filed no later than the thirty-first day of
26 January of the following year and which shall cover the period from the twenty-
27 sixth day after the special election through December 31.

28 (d) Each report require by this section shall contain the following information:

29 (3) The identification by name and address of each person who makes a contribution or
30 contribution in-kind to the reporting committee during the reporting period and whose
31 contributions and contributions in-kind have an aggregate amount or value ~~in excess~~
32 of fifty dollars (\$50.00) or more within the calendar year, together with the amount and
33 date of such contribution and contribution in-kind and the aggregate contribution and
34 contribution in-kind of such person during the election cycle. The reporting committee
35 may elect to file a listing of all contributions and contributions in-kind during the
36 reporting period, but such listing must include the name and address of each
37 contributor, along with the aggregate contribution and contribution in-kind of such
38 contributor during the election cycle;

39 (4) The occupation and employer of any natural person if the sum of that person's
40 contribution and contribution in-kind ~~exceeds~~ is two hundred dollars (\$200.00) or
41 more in a calendar year. In fulfilling the obligations of this subparagraph (4), the

1 treasurer of a political committee must show that best efforts have been used to
2 obtain the information required. The treasurer will not be deemed to have exercised
3 best efforts to obtain the required information unless he or she has made at least
4 one (1) effort per contribution or contribution in-kind, either by written request or by
5 oral request documented in writing to obtain the information from the contributor.
6 The effort shall consist of a clear request for the information which informs the
7 contributor that the reporting of the information is required by law;

8 (6) The name and address of each person to whom an expenditure in an aggregate
9 amount or value ~~in excess of~~ fifty dollars (\$50.00) or more within the calendar year is
10 made by the reporting committee on behalf of a candidate or the committee,
11 together with the date, amount, and types of goods or services purchased;

12 (9) The details of any unpaid obligation ~~over~~ of five hundred dollars (\$500.00) or more
13 and thirty (30) days or more overdue, which is not otherwise included as a
14 contribution or contribution in-kind, incurred by the reporting political committee
15 during the reporting period, including: identification of the person to whom the
16 obligation is due, including the name and mailing address to whom the obligation is
17 due; the due date of the obligation; the purpose of the obligation; and the amount
18 past due of the obligation.

19 (i) If a reporting day falls on a weekend, legal holiday, or a City and County of Denver
20 furlough day, the report shall be filed by the next business day. If a reporting day falls on a
21 day when the City is fully or partially closed for business, then the report shall be filed in
22 accordance with any and all rules or policies designated by the clerk and recorder.

23 **SECTION 4.** That subsection (b) of section 15-36, D.R.M.C. will be amended by adding the
24 language underlined and deleting the language stricken all to read as follows:

25 **Sec. 15-36. Filing of reports.**

26 (b) Reports required to be filed by this article shall be deemed timely filed if received by
27 the clerk and recorder no later than ~~the~~ 5:00 p.m. on the designated day.

28 **SECTION 5.** That subsections (e) and (f) of section 15-37, D.R.M.C. will be amended by
29 adding the language underlined and deleting the language stricken all to read as follows:

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

31 (e) No person shall make a contribution to a political committee which equals or exceeds
32 fifty dollars (\$50.00) in currency or coin. Any portion of a contribution in currency or coin
33 ~~which exceeds~~ of fifty dollars (\$50.00) or more shall be remitted by the treasurer to the clerk
34 and recorder no later than seventy-two (72) hours after receipt, for deposit by the clerk and
35 recorder into the general fund of the city.

36 (f) Any portion of an anonymous contribution ~~in excess of~~ fifty dollars (\$50.00) or more
37 received by a political committee shall be remitted by the treasurer to the clerk and recorder
38 no later than seventy-two (72) hours after receipt, for deposit by the clerk and recorder into
39 the general fund of the city.

40 **SECTION 6.** That subsection (3) of section 15-39, D.R.M.C. will be amended by adding the

1 language underlined and deleting the language stricken to read as follows:

2 **Sec. 15-39. Duties of the clerk and recorder.**

3 (3) Notify the political committee involved if the clerk and recorder makes a determination
4 of an apparent violation has been found, or if a written complaint about the committee
5 is filed with the clerk and recorder pursuant to section 15-40. The political committee
6 will have ten (10) days from the date of notice of an apparent violation or a complaint
7 to correct For any violation of this article, including failure to file complete reports as
8 required by section 15-35(d); ~~except when that for~~ any violation of paragraph (b)(2) of
9 section 15-35 (concerning deadlines for reports during special elections) occurs, then
10 the clerk and recorder will allow the political committee two (2) days in which to correct
11 the deficiency. ~~the clerk and recorder shall allow the political committee ten (10) days~~
12 ~~to correct the violation before proceeding to enforce this article as provided in section~~
13 ~~15-40, except that for violation of paragraph (b)(2) of section 15-35, the clerk and~~
14 ~~recorder shall allow the political committee two (2) days in which to correct the~~
15 ~~deficiency.~~ If the political committee fails to correct the violation within the preceding
16 timeframes, the clerk and recorder shall appoint a hearing officer to investigate the
17 apparent violation or complaint in accordance with the procedure provided in section
18 15-40.

19 **SECTION 7.** That subsection 15-41(b), D.R.M.C. will be amended by deleting the language
20 stricken and adding the language underlined to read as follows:

21 **Sec. 15-39. Penalties.**

22 (b) Upon determination by a court of competent jurisdiction, any violation of sections 15-
23 35, 15-36, and 15-37 of the Revised Municipal Code shall be considered a violation of
24 subdivision C1.9-3 of the Charter. The candidate shall forfeit his or her right to assume office
25 to which he or she may have been elected. If the person has already assumed office, the
26 office shall be vacated as provided under Charter ~~subdivision C1.9-3.~~ section 8.2.15. Any
27 vacancy created by the operation of this subsection shall be filled as provided in section
28 ~~C5.24~~ 8.2.15 of the Charter.

29 **SECTION 8.** That a new section 15-46 will added to Article III of Chapter 15, D.R.M.C. and
30 subsequent reserved sections shall be renumbered, all to read as follows:

31 **Sec. 15-46. Rules and regulations.**

32 The Clerk and Recorder may adopt rules and regulations necessary for the implementation
33 of this Article III. Such rules shall be promulgated in accordance with D.R.M.C. Chapter 2,
34 Article VI.

35 **Secs. 15-47—15-60. Reserved.**

36

1 COMMITTEE APPROVAL DATE: October 13, 2010

2 MAYOR-COUNCIL DATE: October 19, 2010

3 PASSED BY THE COUNCIL _____ 2010

4 _____ - PRESIDENT

5 APPROVED: _____ - MAYOR _____ 2010

6 ATTEST: _____ - CLERK AND RECORDER,
7 EX-OFFICIO CLERK OF THE
8 CITY AND COUNTY OF DENVER

9

10 NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2010; _____ 2010

11 PREPARED BY: Victoria Ortega - ASSISTANT CITY ATTORNEY – October 21 2010

12 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
13 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
14 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to
15 §3.2.6 of the Charter.

16

17 David R. Fine, City Attorney for the City and County of Denver

18 BY: _____, _____ City Attorney

19 DATE: _____