

1 **BY AUTHORITY**

2 ORDINANCE NO. _____

COUNCIL BILL NO. _____

3 SERIES OF 2010

COMMITTEE OF REFERENCE:

4
5 Discussed: _____, 2010

6
7 **A B I L L**

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

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

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

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

19
20 **BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

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

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

26
27 (1) *Candidate* shall mean any person who:

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

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

1 of influencing an election. *Political committee* includes a committee, club,
2 association or other group which solicits contributions or contributions in-kind
3 and places such contributions or contributions in-kind in its treasury for
4 distribution to campaigns. *Political committee* does not include a committee,
5 club, association or other group which solicits individual contributions and
6 passes those contributions along to campaigns without placing the
7 contributions in ~~the~~ its own treasury prior to distribution to a ~~of the~~ political
8 committee.
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10 **SECTION 2.** That subsection 15-33(a), D.R.M.C. will be amended by adding the
11 language underlined and deleting the language stricken to read as follows:

12 **Sec. 15-33. Candidate affidavit, reporting, and disclosure.**
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14 (a) Within ten (10) days after becoming a candidate as defined in section 15-
15 32(1) a., each candidate shall certify by affidavit filed with the ~~city clerk~~ clerk and
16 recorder that the person is familiar with the provisions of this article.
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18 **SECTION 3.** That subsections (b)(1), (b)(2), (d)(3), (d)(4),(d)(6),and (d)(9) of section
19 15-35, D.R.M.C. will be amended adding the language underlined and deleting the
20 language stricken, and that a new subsection (i) will be added to said section 15-35, all to
21 read as follows:

22 **Sec. 15-35. Reporting requirements.**
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24 (b) For years in which there is an election which the political committee seeks to
25 influence by making contributions, contributions-in-kind, or expenditures, the
26 treasurer shall file the following reports:
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28 (1) For the calendar year in which there is a general city and county election and
29 run-off election the following reports shall be filed by any candidate for office,
30 any treasurer of an issue committee, or by any incumbent officeholder who is
31 seeking re-election:
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33 (2) For each month prior to a special election, beginning in the month that
34 candidacy is declared or an issue committee becomes a political committee
35 as defined by section 15-32(12) of this article, the following reports shall be
36 filed by any candidate for the office or offices to be determined at the special
37 election or any treasurer of an issue committee seeking to influence an
38 election:
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40 a. Monthly reports for each month prior to the month before the special
41 election which shall be complete through the last day of the month
42 and which shall be filed no later than the fifth day of the following
43 month;

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- b. A pre-election report, which shall cover the period beginning the first day of the month before the month in which the special election is to be held and which shall be complete through the Wednesday prior to the special election and which shall be filed no later than the Thursday prior to the special election;
- c. A post-election report, which shall be filed no later than the thirtieth day after the special election, and which shall be complete ~~through~~ beginning with the Thursday prior to the special election through the twenty-fifth day after the special election; and
- d. A year-end report, which shall be filed no later than the thirty-first day of January of the following year and which shall cover the period from the twenty-sixth day after the special election through December 31.

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

- (3) The identification by name and address of each person who makes a contribution or contribution in-kind to the reporting committee during the reporting period and whose contributions and contributions in-kind have an aggregate amount or value ~~in excess~~ of fifty dollars (\$50.00) or more within the calendar year, together with the amount and date of such contribution and contribution in-kind and the aggregate contribution and contribution in-kind of such person during the election cycle. The reporting committee may elect to file a listing of all contributions and contributions in-kind during the reporting period, but such listing must include the name and address of each contributor, along with the aggregate contribution and contribution in-kind of such contributor during the election cycle;
- (4) The occupation and employer of any natural person if the sum of that person's contribution and contribution in-kind ~~exceeds~~ is two hundred dollars (\$200.00) or more in a calendar year. In fulfilling the obligations of this subparagraph (4), the treasurer of a political committee must show that best efforts have been used to obtain the information required. The treasurer will not be deemed to have exercised best efforts to obtain the required information unless he or she has made at least one (1) effort per contribution or contribution in-kind, either by written request or by oral request documented in writing to obtain the information from the contributor. The effort shall consist of a clear request for the information which informs the contributor that the reporting of the information is required by law;
- (6) The name and address of each person to whom an expenditure in an aggregate amount or value ~~in excess~~ of fifty dollars (\$50.00) or more within

1 the calendar year is made by the reporting committee on behalf of a
2 candidate or the committee, together with the date, amount, and types of
3 goods or services purchased;

- 4
- 5 (9) The details of any unpaid obligation ~~over~~ of five hundred dollars (\$500.00)
6 or more and thirty (30) days or more overdue, which is not otherwise
7 included as a contribution or contribution in-kind, incurred by the reporting
8 political committee during the reporting period, including: identification of
9 the person to whom the obligation is due, including the name and mailing
10 address to whom the obligation is due; the due date of the obligation; the
11 purpose of the obligation; and the amount past due of the obligation.

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

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

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

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

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

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

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

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

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

1 adding the 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
4 determination of an apparent violation has been found, or if a written
5 complaint about the committee is filed with the clerk and recorder pursuant to
6 section 15-40. The political committee will have ten (10) days from the date
7 of notice of an apparent violation or a complaint to correct For any violation
8 of this article, including failure to file complete reports as required by section
9 15-35(d); except when that for any violation of paragraph (b)(2) of section 15-
10 35 (concerning deadlines for reports during special elections) occurs, then
11 the clerk and recorder will allow the political committee two (2) days in which
12 to correct the deficiency. ~~the clerk and recorder shall allow the political~~
13 ~~committee ten (10) days to correct the violation before proceeding to enforce~~
14 ~~this article as provided in section 15-40, except that for violation of paragraph~~
15 ~~(b)(2) of section 15-35, the clerk and recorder shall allow the political~~
16 ~~committee two (2) days in which to correct the deficiency.~~ If the political
17 committee fails to correct the violation within the preceding timeframes, the
18 clerk and recorder shall appoint a hearing officer to investigate the apparent
19 violation or complaint in accordance with the procedure provided in section
20 15-40.

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

24 **Sec. 15-39. Penalties.**

25 (b) Upon determination by a court of competent jurisdiction, any violation of
26 sections 15-35, 15-36, and 15-37 of the Revised Municipal Code shall be
27 considered a violation of subdivision C1.9-3 of the Charter. The candidate shall
28 forfeit his or her right to assume office to which he or she may have been elected. If
29 the person has already assumed office, the office shall be vacated as provided
30 under Charter ~~subdivision C1.9-3.~~ section 8.2.15. Any vacancy created by the
31 operation of this subsection shall be filled as provided in section ~~C5.24~~ 8.2.15 of the
32 Charter.
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37 **SECTION 8.** That a new section 15-46 will added to Article III of Chapter 15,
38 D.R.M.C. and subsequent reserved sections shall be renumbered, all to read as follows:

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

40 The Clerk and Recorder may adopt rules and regulations necessary for the
41 implementation of this Article III. Such rules shall be promulgated in accordance

1 with D.R.M.C. Chapter 2, Article VI.

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3 **Secs. 15-47—15-60. Reserved.**

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5 COMMITTEE APPROVAL DATE: _____ 2010.

6 MAYOR-COUNCIL DATE: _____ 2010.

7 PASSED BY THE COUNCIL _____ 2010

8 _____ - PRESIDENT

9 APPROVED: _____ - MAYOR _____ 2010

10 ATTEST: _____ - CLERK AND RECORDER,
11 EX-OFFICIO CLERK OF THE
12 CITY AND COUNTY OF DENVER

13
14 NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2010; _____ 2010

15 PREPARED BY: Victoria Ortega - ASSISTANT CITY ATTORNEY – _____ 2010

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

20
21 David R. Fine, City Attorney for the City and County of Denver
22 BY: _____, _____ City Attorney

23 DATE: _____