

1 **BY AUTHORITY**

2 ORDINANCE NO. _____

COUNCIL BILL NO. CB13-0525

3 SERIES OF _____

COMMITTEE OF REFERENCE:

4 Government and Finance

5 **A BILL**

6
7 **For an ordinance codifying in the Denver Revised Municipal Code certain**
8 **provisions of law related to election procedures, subject to approval of a**
9 **referred charter amendment at the November 5, 2013 special municipal election**
10 **removing these same provisions from the Charter.**
11

12 **WHEREAS**, Council has referred to a November 5, 2013 special municipal election a
13 proposed charter amendment that would remove certain detailed election provisions from the
14 charter, with the intention to readopt these same provisions via ordinance in the event the charter
15 amendment is approved; and

16 **WHEREAS**, the purpose of this ordinance is to readopt the same provisions of city election
17 laws in the event the voters approve the amendment on November 5, 2013 removing these
18 provisions from the charter.

19
20 **NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF**
21 **DENVER:**

22 **Section 1.** That section 15-1, D.R.M.C. shall be amended by deleting the language stricken
23 and adding the language underlined, to read as follows:
24

25 **Sec. 15-1. Filing acceptance of nomination when ineligible.**

26 Any person nominated as a candidate for a city elected office shall file an
27 acceptance with the Clerk and Recorder at least fifty-five (55) days before the day of
28 election, and in the absence of such acceptance the name of the candidate shall not
29 appear on the ballot. Any person who has been nominated may, not later than forty-
30 eight (48) days before the day of election, withdraw by filing with the Clerk and
31 Recorder a request therefor in writing, and no name so withdrawn shall be placed
32 upon the ballot. It shall be unlawful for any person nominated for any elective officer
33 of the city to file with the clerk and recorder an acceptance of such nomination when,
34 at the time of such filing, such person has knowledge of any fact rendering such
35 person ineligible to enter upon the duties of such office if elected thereto.

1 **Section 2.** That Article I of Chapter 15, D.R.M.C. shall be amended by adding new sections
2 15-8, 15-9, 15-10, and 15-11, to read as follows:

3 **Sec. 15-8. Preparation of ballots.**

4 The Clerk and Recorder shall cause ballots for each City and County general
5 and special election to be prepared, printed, and authenticated. The ballots shall
6 contain a complete list of the offices to be filled and the names of the candidates
7 nominated therefor, together with the submission clause or ballot title only of any
8 initiative, referendum, Charter amendments, or other referred measure. The order of
9 any initiative, referendum, Charter amendment, or other referred measure shall be as
10 specified by the City Council and shall comply with the Constitution and general laws
11 of the State.

12 **Sec. 15-9. Form of ballot questions.**

13 At any election at which any initiative, referendum, Charter amendment, or
14 other referred measure shall be submitted to a vote of the qualified electors, the
15 official ballot shall, by proper words to be provided by ordinance, show the nature of
16 the initiative, referendum, Charter amendment, or other referred measure to be voted
17 upon, and shall give to each voter the right to show clearly his or her intention to vote
18 yes or no on each initiative, referendum, Charter amendment, or other referred
19 measure, and in case any separate or alternative proposition or propositions be
20 submitted, the ballot shall be prepared so as to enable the voter to express his or her
21 intention in regard to each proposition. For ordinances that are placed on the ballot
22 as a result of an initiative or referendum petition, the official ballot shall include the
23 ballot title submitted by the petitioners' committee and approved by the Clerk and
24 Recorder as provided in Subsection 3.3.2 (C) of the Charter.

25 **Sec. 15-10. Write-in votes.**

26 No write-in vote for any office shall be counted unless the candidate has filed
27 an affidavit of intent to accept the office with the Clerk and Recorder at least fifteen
28 (15) days before the day of the election and meets the qualifications as provided in
29 the Charter for the office.

30 **Sec. 15-11. Initiative and Referendum Petitions**

31
32 (a) *Provisions applicable to all initiative, referendum or recall petitions.*

33
34 (1) *Form of petitions.* Each petition shall be in a style and format specified by the
35 Clerk and Recorder. Petitions may be circulated in separate sections so long as
36 each section conforms to the petition style and format specified by the Clerk and
37 Recorder. Circulated copies of each petition shall state the title and have attached
38 the full text of the proposed initiative or referendum. For recall, the circulated

1 copies of each petition shall contain the name of the elected official whose recall
2 is being sought, the office held by the official, and a statement of the grounds
3 upon which recall is being sought. Each petition shall have space provided for
4 signatures and addresses of electors as provided for by the Clerk and Recorder.
5

6 (2) *Signing of petitions.* Each registered elector shall provide a signature, the date of
7 signing, the registered elector's full residence address, and other pertinent
8 information as deemed necessary by the Clerk and Recorder.
9

10 (3) *Procedures for verification of signatures and validity of petitions.* The Clerk and
11 Recorder for good cause shown may verify the sufficiency of the signatures and
12 the validity of the petitions. A method for determining the validity of the identity of
13 the electors, including the signatures, full residence address, and the other
14 information required on petitions may be enacted by ordinance. Where no
15 ordinance expressly pertaining thereto is enacted, the Clerk and Recorder shall
16 establish a method for determining the identity of the electors, including the
17 signatures, full residence address, and the other information required on petitions
18 by ordinance or rules and regulations. The method that applies at the time the
19 petition is approved by the Clerk and Recorder shall continue to apply for that
20 petition, regardless of changes either in ordinance or rules. No method for
21 determining the validity of the signatures shall be established, amended,
22 supplemented or changed until after a public hearing in relation thereto, at which
23 parties in interest and citizens shall have an opportunity to be heard.
24

25 (4) *Affidavit of circulators.* When filed, the petition shall have attached a notarized
26 affidavit of each circulator. The affidavit shall state that the circulator personally
27 circulated the petition copy, that all signatures were affixed in the circulator's
28 presence, that they are to the best of the circulator's knowledge genuine
29 signatures of registered electors, and that each signer had an opportunity to read
30 the full text and ballot title of the initiative or referendum or the stated grounds for
31 recall. Each circulator shall be a qualified elector of the State of Colorado.
32

33 (5) *Filing of petitions; determination of sufficiency; protest and hearings.* After
34 signatures have been obtained, the petitioners' committee shall file the completed
35 petition with the Clerk and Recorder no later than close of business on a normal
36 business day. All related petition sections shall be filed at the same time. The
37 Clerk and Recorder shall record the same and shall hold the petition for a period
38 of twenty-five days, during which time the Clerk and Recorder shall determine
39 whether the petition is signed by the requisite number of registered electors. In
40 the event the Clerk and Recorder determines that the petition contains an
41 insufficient number of signatures, the Clerk and Recorder shall notify the
42 petitioners' committee of the insufficiency, and the petitioners' committee may
43 cure the insufficiency by filing an addendum to the original petition for the purpose

1 of offering such number of additional signatures as will cure the insufficiency. Any
2 addendum shall be filed within the time period allowed for the original petition as
3 provided in this Charter. The Clerk and Recorder shall record and hold any
4 addendum for an additional period of twenty-five days and verify the signatures on
5 the addendum in the same manner as is provided for the original petition. Within
6 the twenty-five-day period for review of the petition or any addendum thereto, a
7 protest subscribed and sworn to under oath may be filed by a registered elector. A
8 protestor shall identify by name the signers protested against or specify the
9 factual and legal basis of any other alleged defects in the petition. The Clerk and
10 Recorder shall consider the grounds of protest and may hear evidence, after
11 giving notice of the hearings to the petitioners' committee, the protestors, and
12 others the Clerk and Recorder may require for the hearings. Hearings shall be
13 concluded and findings issued as soon as practicable but not more than fifty (50)
14 days after the filing of a protest with the Clerk and Recorder.

15
16 (6) *Submission to ballot.* Upon a final determination of sufficiency of any initiative or
17 referendum petition pursuant to paragraph (5) of this subsection (a), the Clerk and
18 Recorder shall immediately notify the City Council of the determination in writing.
19 Unless the City Council calls an earlier special municipal election, as provided in
20 paragraph (b)(2) or (c)(2) of this section, the Clerk and Recorder shall submit the
21 initiative or referendum to the ballot at the next scheduled citywide election held
22 not less than sixty days after the determination of sufficiency. Any recall petition
23 finally determined to be sufficient by the Clerk and Recorder shall be immediately
24 certified to the City Council for the scheduling of a recall election in accordance
25 with paragraph (d)(3) of this section.

26
27 (7) *Public record.* From the time of filing, all petitions become public records. Upon
28 completion of proceedings by City Council, they shall be preserved by the office of
29 the Clerk and Recorder.

30
31 (b) *Additional provisions applicable to initiative petitions.*

32
33 (1) *Time for filing.* A completed initiative petition shall be filed with the Clerk and
34 Recorder no later than one hundred eighty days from the date of approval of the
35 affidavit, ballot title, and petition form for the initiative as provided in Subsection
36 8.3.2 (C) of the charter.

37
38 (2) *Optional submission to special election.* Upon receipt of written notification that
39 the Clerk and Recorder has determined an initiative petition to be sufficient as
40 provided in paragraph (1)(5) of this section, in lieu of the Clerk and Recorder
41 submitting the initiative to the next scheduled citywide election, the City Council
42 may, at its discretion, call a special election to be held prior to the next scheduled

1 citywide election for the purpose of submitting the initiated ordinance to the
2 electorate, subject to the limitations set forth in Section 8.2.3 of the Charter.
3

4 (3) *Publication of proposed ordinance.* The Clerk and Recorder shall publish the
5 proposed ordinance in a manner consistent with the publication of other
6 ordinances before such election is held.
7

8 (c) *Additional provisions applicable to referendum petitions.*
9

10 (1) *Time for filing.* A completed referendum petition shall be filed with the Clerk and
11 Recorder within ninety (90) days of passage of the ordinance to be referred.
12

13 (2) *Optional submission to special election.* Upon receipt of written notification that
14 the Clerk and Recorder has determined a referendum petition to be sufficient as
15 provided in paragraph (a)(5) of this section, in lieu of the Clerk and Recorder
16 submitting the referendum to the next scheduled citywide election, the City
17 Council may, at its discretion, call a special election to be held prior to the next
18 scheduled citywide election for the purpose of submitting the ordinance to the
19 electorate, subject to the limitations set forth in Section 8.2.3 of the Charter.
20

21 (3) *Publication of ordinance proposed for referendum.* The Clerk and Recorder shall
22 publish the ordinance proposed for referendum in a manner consistent with the
23 publication of other ordinances before such election is held.
24

25 (d) *Additional provisions applicable to recall petitions.*

26 (1) *Time for filing.* A petition for recall shall be filed with the Clerk and Recorder not
27 later than ninety (90) days after filing of the affidavit of the petitioners' committee
28 initiating recall proceedings. Failure to file a petition within this period shall render
29 the recall petition null and void.
30

31 (2) *Form of ballot and election procedures.* The name of the incumbent sought to be
32 recalled shall be printed as a candidate on the official ballot, unless the incumbent
33 declines or a vacancy exists. Nominations and election of candidates shall be
34 conducted as at a general City and County election, including a run-off election
35 where necessary.
36

37 **Section 2.** This ordinance shall become effective if and only if the voters approve the
38 charter amendment at the November 5, 2013 special election deleting the foregoing provisions
39 from the Charter.
40

1 COMMITTEE APPROVAL DATE: August 7, 2013.

2 MAYOR-COUNCIL DATE: August 13, 2013.

3 PASSED BY THE COUNCIL _____ 2013

4 _____ - PRESIDENT

5 APPROVED: _____ - MAYOR _____ 2013

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

9 NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2013; _____ 2013

10
11 PREPARED BY: David W. Broadwell, Asst. City Attorney; DATE: August 15, 2013

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

17
18 Douglas J. Friednash, Denver City Attorney

19 BY: _____, _____ City Attorney DATE: _____, 2013

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