

1 BY AUTHORITY

2 ORDINANCE NO. _____
3 SERIES OF 2018

COUNCIL BILL NO. _18-0900____
COMMITTEE OF REFERENCE:
FINANCE & GOVERNANCE

6 A BILL

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

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

16
17 **Section 1.** There is hereby submitted to the registered electors of the City and County of
18 Denver for their approval or rejection at a special municipal election to be conducted at the same time
19 and in conjunction with the general election to be held in the City and County of Denver on November
20 6, 2018, a proposed change to the Denver Revised Municipal Code, as follows:

21
22 **Section 2.** That section 15-31, 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. 15-31. - Purpose & Finding**

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

34 (b) The ~~council~~ people further find and declare that regulation of campaign contributions,
35 public disclosure of political spending, and establishment of a voluntary alternative source of
36 campaign financing in the form of limited public matching funds are required because the costs of

1 running political campaigns have dramatically escalated in recent years, leading to a public
2 perception that special interests and wealthy individuals may have undue influence on or access to
3 elected officials.

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

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

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

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

23
24 **Section 2.** That section 15-32, D.R.M.C. shall be amended by deleting the language
25 stricken and adding the language underlined, to read as follows:

26
27 **Sec. 15-32. - Definitions.**

28
29 As used in this article, the following words and phrases shall have the following meanings, unless
30 otherwise clearly indicated by the context:

- 31 (a) *Candidate* shall mean any person who:
- 32 (1) Seeks election or re-election to any elected Charter office listed in Charter section
33 9.2.1(A) (the offices of mayor, auditor, clerk and recorder, and member of city council) and any
34 judge of the county court who seeks to be retained in office pursuant to Charter subdivision 4.1.5.

1 A person is a candidate for election upon the first to occur of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (e) *Contribution in-kind* shall mean a gift or loan of any item of real or personal property,
6 or any other thing of value, but not including money, made to or for any candidate or committee for
7 the purpose of influencing an election or for the purpose of disseminating newsletters related to
8 the scope of duties of an incumbent. "Contribution in-kind" does not include services provided
9 without compensation by any individual who volunteers on behalf of a candidate or committee or
10 an endorsement of candidacy or issue by any person. In determining the value to be placed on
11 contributions in-kind, a reasonable estimate of the fair market value shall be used.

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

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

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

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

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

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

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

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

(i) *Election cycle* shall mean;

(1) For the candidates of mayor, auditor, clerk and recorder, and member of city council, 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.

(2) For judges in their first term, 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.

(3) For judges in other terms, 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.

(4) 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; and

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

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

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

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

(3) Is broadcast to, printed in a newspaper distributed to, mailed or delivered by hand to, targeted online to, or posted on a billboard to an audience that includes members of the electorate

1 for the candidate, ballot issue or ballot question.

2 (4) Electioneering communication does not include:

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

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

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

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

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

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

23 (1) Independent expenditure does not include:

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

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

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

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

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

3 (m) *Issue committee* shall mean any committee, club, association, corporation, or other
4 group of persons which receives contributions or contributions in-kind aggregating five hundred
5 dollars (\$500.00) or more during an election cycle and makes expenditures aggregating five
6 hundred dollars (\$500.00) or more during an election cycle for the major purpose of supporting or
7 opposing one (1) or more ballot issues or ballot questions. Issue committee does not include
8 political parties, political committees, or candidate committees as otherwise defined in this section.

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

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

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

26
27 **Section 3.** That Sec. 15-37 of the Denver Revised Municipal Code shall be
28 amended by deleting the language stricken and adding the language underlined, to read as
29 follows:

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

32
33 (a)(1) For any particular election cycle, no person shall make contributions or
34 contributions in-kind to a candidate and his or her candidate committees that, in the aggregate,

1 exceed the following amounts:

2

3

Office	Amount
Mayor	\$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

4

<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>

5

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

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

18 (3) Each election cycle limit on contributions and contributions in-kind described in
19 subsection (a)(1) of this section shall be adjusted by an amount based upon the percentage

1 change over a four-year period in the United States bureau of labor statistics consumer price
2 index for Denver- Boulder-Greeley, all items, all consumers, or its successor index, rounded to
3 the nearest lowest five dollars. The first adjustment shall be done in the first quarter of 2020
4 and then every four years thereafter. The clerk and recorder shall calculate such an
5 adjustment in each limit and specify the limits in rules promulgated in accordance with section
6 15-46.

7 (b) No candidate committee shall accept any contribution or contribution in-kind from
8 any person if that person's contributions or contributions in-kind on behalf of the candidate
9 have an aggregate amount or value in excess of the amounts listed in section 15-37(a). Any
10 contribution or contribution in-kind or portion thereof that exceeds the limits in section 15-
11 37(a) shall be returned to the contributor within seventy-two (72) hours of receipt.

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

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

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

25
26 **Section 4.** That Article VIII of Chapter 15 of the Denver Revised Municipal Code
27 shall be amended by the addition of a new division to read as follows:

28
29 **Section 15-47. - Purpose and Finding.**

30
31 This Article shall be known as the Denver Fair Elections Act. Its purpose is to advance the
32 findings and declarations articulated by the people of Denver in Section 15-31 of the Denver
33 Municipal Code.

34

1 **Section 15-48. - Definitions.**

2

3 (a) As used in this article, the following words and phrases shall have the following
4 meanings, unless otherwise clearly indicated by the context:

5 (1) “*Fund*” means the Fair Elections Fund created by Sec. 15-51.

6 (2) “*Match-eligible contribution*” means any contribution subject to the limits in Sec.
7 15-96 to a participating candidate from a Denver resident who is a natural person, not to
8 exceed fifty dollars per contributor.

9

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

14 (4) “*Qualifying contribution*” means a contribution of at least five dollars, but not
15 greater than the limits in Sec. 15-53, to a candidate running for the office of Mayor, City
16 Council, Clerk and Recorder, and Auditor from a small donor committee or a Denver resident
17 who is a natural person, received during the qualifying period.

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

23

24 **Sec. 15-49. - Severability.**

25

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

30

31 **Sec. 15-50. - Fair Elections Fund.**

32

33 (a) Establishment of Fair Elections Fund. A special, dedicated Fair Elections Fund is
34 established for the purpose of:

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

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

5 (b) Appropriations to the Fair Elections Fund.

6 (1) The city shall annually appropriate \$2.88 per City of Denver resident per year,
7 as determined by the most recent official United States Census Bureau Population Estimate
8 for the City of Denver, from the City General Fund to the Fair Elections Fund. The Mayor
9 and Council's duty to appropriate funds for the public financing program shall cease upon
10 the termination of the public financing program. Appropriations to the Fund shall be
11 encumbered to satisfy the obligation created by subsection (a) of this section pursuant to
12 Charter Sec. 7.2.3 until the maximum amount allowed in the Fair Elections Fund is reached
13 pursuant to subsection (b)(3) of this section.

14 (2) Other sources of revenue to be deposited in the Fund shall include:

15 a. Unspent funds distributed to any participating candidate who does not remain a
16 candidate until the election for which they were distributed, or such funds that remain
17 unspent by a participating candidate;

18 b. Other funds appropriated by the Mayor and City Council;

19 c. Unexpended campaign contributions from any candidate or political committee.

20 d. Any interest generated by the Fund; and

21 e. Any other sources of revenue determined as necessary by the City Council.

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

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

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

30 (c) Periodic Adjustments to Appropriations. The dollar amounts specified in subsection (b) of
31 this section and the aggregate amounts in Sec. 15-55(b) shall be adjusted by an amount based upon
32 the percentage change over a four-year period in the United States bureau of labor statistics
33 consumer price index for Denver- Boulder-Greeley, all items, all consumers, or its successor index,

34 (d) rounded to the nearest lowest five dollars. The first adjustment shall be done in the first

1 quarter of 2024 and then every four years thereafter. The clerk and recorder shall calculate such
2 adjustments.

3

4 **Sec. 15-51. - Offices Covered.**

5

6 (a) Candidates for the office of Mayor, City Council, Clerk and Recorder, Judge, and
7 Auditor shall be eligible to participate in the public campaign financing program established by
8 this chapter, pursuant to the restrictions, requirements, and provisions specific to these
9 respective offices.

10

11 **Sec. 15-52. - Eligibility for Fair Elections Campaign Funding.**

12

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

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

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

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

23 c. The candidate will comply with the requirements of this Act during the
24 remainder of the election cycle and, specifically, if certified a participating candidate, will
25 comply with the requirements applicable to participating candidates.

26 (2) Before the close of the qualifying period, ensure that the following number of
27 qualifying contributions have been collected by the candidate or his or her campaign
28 committee;

29 a. For a candidate running for the office of Mayor, at least 250 unique
30 qualifying contributions;

31 b. For a candidate running for the office of City Council, Auditor, Judge and
32 Clerk and Recorder at least 100 unique qualifying contributions.

33 (3) Ensure that each qualifying contribution shall be acknowledged by a receipt to the
34 contributor, with a copy retained by the candidate for a period of two (2) years after the election

1 for which he or she is a candidate. The receipt shall include the contributor's printed name,
2 home address, and telephone number, if any, and the name of the candidate on whose behalf
3 the contribution is made. In addition, the receipt shall indicate that the contributor understands
4 that the purpose of the contribution is to help the candidate qualify for Fair Elections campaign
5 funding, that the contribution up to \$50 will be matched by the Fund by 900 percent, and that
6 the contribution is made without coercion or reimbursement. A copy of completed receipts for
7 all qualifying contributions shall be submitted with the application for certification as a
8 participating candidate, and any contribution for which a candidate has not obtained a fully
9 completed receipt shall not be counted as a qualified contribution. This application shall include
10 a signed statement from the candidate indicating that all information on the qualifying
11 contribution receipts is complete and accurate to the best of the candidate's knowledge.

12 (4) Be in a race with at least one other candidate for that office.
13

14 **Sec. 15-53. - Requirements for Participation in the Fair Elections Program**
15

16 (a) Except as provided in subsection (f) of this section, participating candidates and
17 candidates seeking certification may not accept contributions from natural persons above these
18 limits.
19

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

20
21 (b) Participating candidates and candidates seeking certification may accept
22 contributions only from a small donor committee or natural persons and may not accept
23 contributions from any local, state, or federal issue, candidate, or political committees. A
24 participating candidate or a candidate seeking certification may not accept contributions from
25 a small donor committee in the aggregate in excess of the ten times the contribution limit for
26 the office that the candidate seeks.

27 (c) Participating candidates shall obtain and maintain and issue receipts for all
28 match-eligible contributions retained by the candidate for a period of two (2) years after the
29 election. The receipt shall include the contributor's printed name, home address, and
30 telephone number, if any, and the name of the candidate on whose behalf the contribution is

1 made. In addition, the receipt shall indicate that the contributor understands that the
2 contribution up to \$50 will be matched by the Fund by 900 percent, and that the contribution is
3 made without coercion or reimbursement.

4 (d) Participating candidates and candidates seeking certification shall obtain and
5 furnish to the clerk and recorder any information it may request relating to his or her
6 campaign expenditures or contributions and furnish such documentation and other proof of
7 compliance with this chapter as may be requested by such clerk and recorder; and

8 (e) Participating candidates and candidates seeking certification must comply with
9 all requirements for candidate affidavits, organization, registration, and reporting for
10 candidate committees in Sections 15-33 and 15-35.

11 (f) Participating candidates shall not donate to their own campaigns in an
12 aggregate amount greater than the limits in Section 15-53(a). However, a participating
13 candidate may personally loan his or her own campaign seed money up to five thousand
14 dollars (\$5,000). Any money loaned must be repaid by the campaign from the account that
15 does not include public monies. Any portion of the loan not repaid is deemed a contribution
16 and must comply with applicable contribution limits and reporting requirements.

17 (g) A participating candidate must refund any unexpended money back to the fair
18 elections campaign fund no later than sixty (60) days after publicly announces or notifies the
19 clerk and recorder of his or her withdraw from the race, or by the last day in the election cycle,
20 whichever occurs first.

21 (h) Participating candidates must maintain and certify to the clerk and recorder two
22 separate bank accounts. The candidate must use one bank account for all public monies
23 received from the fund and a second account for all other campaign loans and contributions.

24

25 **Sec. 15-54. - Certification of Participating Candidates by clerk and recorder.**

26

27 (a) No later than ten (10) business days after a candidate files with the clerk and
28 recorder an application for certification as a participating candidate, the clerk and recorder
29 shall notify the candidate whether or not the application is approved.

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

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

1 (d) A participating candidate's initial request for funds from the Fair Elections Fund
2 within the application for certification as a participating candidate shall be made using a form
3 prescribed by the clerk and recorder and shall be accompanied by qualifying contribution
4 receipts and any other information the clerk and recorder deems necessary. The clerk and
5 recorder shall verify that a candidate's qualifying contributions meet all of the requirements
6 and restrictions of this Act prior to the disbursement of funds from the Fair Elections Fund to the
7 candidate.

8
9 **Sec. 15-55. - Fair Elections Fund Payments.**

10
11 (a) Participating candidates shall receive payment of funds from the Fair Elections
12 Fund equal to nine-hundred percent (900 percent) of the amount of match-eligible
13 contributions up to \$50 received by the candidate during the election cycle with respect to a
14 single election, subject to the aggregate limit on the total amount of Fair Elections Fund
15 payments to a candidate specified in subsection (b). The maximum match is \$50 per donor
16 per candidate in an election cycle.

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

- 19 (1) \$750,000 for a candidate running for the office of Mayor;
- 20 (2) \$250,000 for a candidate running for the office of Councilmember-at-large,
21 Clerk and Recorder, and Auditor; and
- 22 (3) \$125,000 for a candidate running for a District councilmember.

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

- 25 (1) The clerk must authorize payment of fifty percent of the eligible monies on the first
26 business day in January of the regularly scheduled municipal general election;
- 27 (2) The clerk must authorize payment of the remaining fifty percent of the eligible
28 monies, plus any additional eligible monies due to the candidate on the sixtieth day before the
29 election; and
- 30 (3) The clerk must authorize payment of any remaining eligible monies due to the
31 candidate on the fourteenth day before the election.

32 (d) The clerk and recorder shall provide each participating candidate with a written
33 determination specifying the basis for any non-payment of funds from the Fair Elections Fund.
34 The clerk and recorder shall provide participating candidates with a process by which they

1 may immediately upon receipt of such determination petition the clerk and recorder for
2 reconsideration of any such non-payment and such reconsideration shall occur within five
3 business days of the filing of such petition.

4

5 **Sec. 15-56. - Run-off Elections.**

6

7 Notwithstanding any other provision of this chapter, a participating candidate in a run-off
8 election held pursuant to Article VIII Part 2. Section 8.2.21 and Part 3. Section 8.3.5 of the City
9 of Denver Charter shall obtain prompt payment for qualified campaign expenditures in an
10 amount equal to twenty-five cents for each one dollar of public funds paid pursuant to this
11 chapter to the candidate's principal committee for the preceding election. Run-off funds do not
12 count against the aggregate limit in Section 15-53.

13

14 **Sec. 15-57. - Insufficient Funds in the Program.**

15

16 If the clerk and recorder determines that there are insufficient funds in the Fair Elections Fund
17 to fund adequately all participating candidates, the clerk and recorder shall notify participating
18 candidates that the clerk and recorder will not likely be capable of distributing to all participating
19 candidates the maximum aggregate amount of Fair Elections Fund payments permissible
20 under Sec. 15-53. Under such circumstances, at such time as the clerk and recorder is unable
21 to fulfill a valid application for funds from the Fair Elections Fund submitted by a participating
22 candidate pursuant to Sec. 15-52(a) and 15-53 the participating candidate may solicit for such
23 candidate's committee and accept contributions under the limit for candidates not participating
24 in the program, and is no longer subject to the requirements for participating candidates in
25 Sections 15-52 and 15-53.

26

27 **Sec. 15-58. - Duties of the clerk and recorder - Violations - Persons Ineligible for Public
28 Funds - Time Limit.**

29

30 (a) The clerk and recorder shall:

31 (1) Adopt rules and regulations if necessary for the implementation of this Article VIII.
32 Such rules shall be promulgated in accordance with D.R.M.C Chapter 2 Article VI.

33 (2) Prescribe forms and provide instructional materials for reports required to be filed
34 by this article.

1 (3) Preserve and maintain all such submissions pursuant to this article and make them
2 available for inspection and copying under the requirements of the state Public Records Act, and
3 maintain an online repository of all information filed pursuant to this article which may be accessed by
4 the public through the Clerk's website.

5 (4) Notify any committee or person involved if the clerk and recorder makes a
6 determination of an apparent violation of this article, or if a written complaint about the
7 committee or person is filed with the clerk and recorder pursuant to section 15-40 regarding
8 compliance with this article. If an electronic mail address is on file with the Clerk, such
9 notification shall also be provided by electronic mail. The committee or person will have ten
10 (10) days from the date of notice of an apparent violation or a complaint to correct any violation
11 of this article. If the committee or person fails to correct the violation within the preceding
12 timeframe, the clerk and recorder shall appoint a hearing officer to investigate the apparent
13 violation or complaint in accordance with the procedure provided in section 15-40.

14 (5) Audit the filings or submissions of various candidate committees as needed to
15 ensure that the committees fully comply with the provisions of this article.

16 (b) Complaints and duties of the clerk and recorder with regard to potential violations of
17 this article shall be governed by the provisions in Sec. 15-40 and 15-41.

18 (c) Penalties for failure to comply with this Article shall be governed by the provisions
19 Section 15-41.

20
21 **Section 15-59. - Effective date and applicability.**

22
23 (a) This act takes effect only upon the withdrawal of the "Democracy for the People"
24 initiative from the ballot for the special municipal election to be held at the same time and in
25 conjunction with the November 6, 2018, general election and applies to the next municipal
26 election cycle beginning on January 1, 2020.

27
28 **Section 5.** The ballot for said election must contain the following title and submission
29 clause:

30
31 REFERRED QUESTION

32
33 Shall the Denver Revised Municipal Code be amended requiring the lowering contribution limits;
34 and adopting a new dedicated fund within the city's general fund, capped at eight million dollars

1 per four-year election cycle, as appropriated by the mayor and city council, to match donations of
2 fifty dollars or less at a ratio of nine to one to candidates who voluntarily agree to raise money in
3 lower amounts?
4

5 **Section 6.** Each elector voting at the election and wishing to vote for or against the
6 amendment must indicate the elector’s choice by indicating “YES” or “NO” on the ballot.
7

8 **Section 7.** The officials of the City and County of Denver charged with duties relating to the
9 election must, before the election, issue such calls, make such certifications and publications, give
10 such notices, make such appointments, and do all such other acts and things in connection with
11 the submission of this code amendment to the registered electors of the City and County of
12 Denver at the election required by the Constitution and laws of the State of Colorado and the
13 Charter and ordinances of the City and County of Denver.
14

15 **Section 8.** The ballots cast at such election must be canvassed and the results
16 ascertained, determined, and certified in accordance with the requirements of the Constitution and
17 laws of the State of Colorado and the Charter and ordinances of the City and County of Denver.
18

19 COMMITTEE APPROVAL DATE: _____, 2018.

20 MAYOR-COUNCIL DATE: _____, 2018.

21 PASSED BY THE COUNCIL _____ 2018
22 _____ - PRESIDENT

23 APPROVED: _____ - MAYOR _____ 2018

24 ATTEST: _____ - CLERK AND RECORDER,
25 EX-OFFICIO CLERK OF THE
26 CITY AND COUNTY OF DENVER
27

28 NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2018; _____ 2018
29

30 PREPARED BY: _____; DATE: _____
31

32 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the
33 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
34 ordinance. The proposed ordinance _____ is/ _____ is not submitted to the City Council for approval
35 pursuant to § 3.2.6 of the Charter.
36

1 Kristin M. Bronson

2 City Attorney

3

4 BY: _____, _____ City Attorney

5 DATE: _____

6

7

8