

1 BY AUTHORITY

2 ORDINANCE NO. _____
3 SERIES OF _____

COUNCIL BILL NO. _____
COMMITTEE OF _____

4 REFERENCE:

5
6 A BILL

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

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

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

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

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

26
27 **Sec. 15-1. Filing acceptance of nomination ~~when ineligible.~~**

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33 Recorder a request therefor in writing, and no name so withdrawn shall be placed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

1 at the time of such filing, such person has knowledge of any fact rendering such
2 person ineligible to enter upon the duties of such office if elected thereto.

3
4 **Section 2.** That Article I of Chapter 15, D.R.M.C. shall be amended by adding new sections
5 15-8, 15-9, 15-10, and 15-11, to read as follows:

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

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

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

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

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

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

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

34
35 (a) *Provisions applicable to all initiative, referendum or recall petitions.*

36
37 (1) *Form of petitions.* Each petition shall be in a style and format specified by the
38 Clerk and Recorder. Petitions may be circulated in separate sections so long as

1 each section conforms to the petition style and format specified by the Clerk and
2 Recorder. Circulated copies of each petition shall state the title and have attached
3 the full text of the proposed initiative or referendum. For recall, the circulated
4 copies of each petition shall contain the name of the elected official whose recall
5 is being sought, the office held by the official, and a statement of the grounds
6 upon which recall is being sought. Each petition shall have space provided for
7 signatures and addresses of electors as provided for by the Clerk and Recorder.
8

9 (2) *Signing of petitions.* Each registered elector shall provide a signature, the date of
10 signing, the registered elector's full residence address, and other pertinent
11 information as deemed necessary by the Clerk and Recorder.
12

13 (3) *Procedures for verification of signatures and validity of petitions.* The Clerk and
14 Recorder for good cause shown may verify the sufficiency of the signatures and
15 the validity of the petitions. A method for determining the validity of the identity of
16 the electors, including the signatures, full residence address, and the other
17 information required on petitions may be enacted by ordinance. Where no
18 ordinance expressly pertaining thereto is enacted, the Clerk and Recorder shall
19 establish a method for determining the identity of the electors, including the
20 signatures, full residence address, and the other information required on petitions
21 by ordinance or rules and regulations. The method that applies at the time the
22 petition is approved by the Clerk and Recorder shall continue to apply for that
23 petition, regardless of changes either in ordinance or rules. No method for
24 determining the validity of the signatures shall be established, amended,
25 supplemented or changed until after a public hearing in relation thereto, at which
26 parties in interest and citizens shall have an opportunity to be heard.
27

28 (4) *Affidavit of circulators.* When filed, the petition shall have attached a notarized
29 affidavit of each circulator. The affidavit shall state that the circulator personally
30 circulated the petition copy, that all signatures were affixed in the circulator's
31 presence, that they are to the best of the circulator's knowledge genuine
32 signatures of registered electors, and that each signer had an opportunity to read
33 the full text and ballot title of the initiative or referendum or the stated grounds for
34 recall. Each circulator shall be a qualified elector of the State of Colorado.
35

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

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

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

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

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

33
34 (1) *Time for filing.* A completed initiative petition shall be filed with the Clerk and
35 Recorder no later than one hundred eighty days from the date of approval of the
36 affidavit, ballot title, and petition form for the initiative as provided in Subsection
37 8.3.2 (C) of the charter.

38
39 (2) *Optional submission to special election.* Upon receipt of written notification that
40 the Clerk and Recorder has determined an initiative petition to be sufficient as
41 provided in paragraph (1)(5) of this section, in lieu of the Clerk and Recorder
42 submitting the initiative to the next scheduled citywide election, the City Council
43 may, at its discretion, call a special election to be held prior to the next scheduled
44 citywide election for the purpose of submitting the initiated ordinance to the
45 electorate, subject to the limitations set forth in Section 8.2.3 of the Charter.

1
2 (3) *Publication of proposed ordinance.* The Clerk and Recorder shall publish the
3 proposed ordinance in a manner consistent with the publication of other
4 ordinances before such election is held.

5
6 (c) *Additional provisions applicable to referendum petitions.*

7
8 (1) *Time for filing.* A completed referendum petition shall be filed with the Clerk and
9 Recorder within ninety (90) days of passage of the ordinance to be referred.

10
11 (2) *Optional submission to special election.* Upon receipt of written notification that
12 the Clerk and Recorder has determined a referendum petition to be sufficient as
13 provided in paragraph (a)(5) of this section, in lieu of the Clerk and Recorder
14 submitting the referendum to the next scheduled citywide election, the City
15 Council may, at its discretion, call a special election to be held prior to the next
16 scheduled citywide election for the purpose of submitting the ordinance to the
17 electorate, subject to the limitations set forth in Section 8.2.3 of the Charter.

18
19 (3) *Publication of ordinance proposed for referendum.* The Clerk and Recorder shall
20 publish the ordinance proposed for referendum in a manner consistent with the
21 publication of other ordinances before such election is held.

22
23 (d) *Additional provisions applicable to recall petitions.*

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

28
29 (2) *Form of ballot and election procedures.* The name of the incumbent sought to be
30 recalled shall be printed as a candidate on the official ballot, unless the incumbent
31 declines or a vacancy exists. Nominations and election of candidates shall be
32 conducted as at a general City and County election, including a run-off election
33 where necessary.

34
35 **Section 2.** This ordinance shall become effective if and only if the voters approve the
36 charter amendment at the November 5, 2013 special election deleting the foregoing provisions
37 from the Charter.

38
39
40 COMMITTEE APPROVAL DATE: _____, 2013.

41 MAYOR-COUNCIL DATE: _____, 2013.

1 PASSED BY THE COUNCIL _____ 2013

2 _____ - PRESIDENT

3 APPROVED: _____ - MAYOR _____ 2013

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

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

9

10 PREPARED BY: _____; DATE: _____

11

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

16

17

18 Douglas J. Friednash

19 City Attorney

20

21 BY: _____, _____ City Attorney

22 DATE: _____

23

24

25