

BY AUTHORITY

ORDINANCE NO. 113
SERIES OF 2009

COUNCIL BILL NO. 91
COMMITTEE OF REFERENCE:
General Government

A BILL

For an ordinance concerning the regulation of campaigns and elections.

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

WHEREAS, pursuant to § 8.2.1 of the Denver Charter, city and county elections shall be conducted in accordance with state law except as may otherwise be provided by the charter or by ordinance; and

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

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

SECTION 1. That subsection 15-31 (e) D.R.M.C. shall be amended by deleting the language stricken and adding the language underlined to read as follows:

Sec. 15-31. Legislative intent.

(e) The people of Denver voted in 1974 to amend ~~subdivision C1.9-1~~ of the Charter to provide for limitations on political contributions and expenditures to be adopted by ordinance. This article implements ~~Charter subdivision C1.9-1~~ § 8.2.15 of the Charter.

SECTION 2. That subsection 15-32 (1), D.R.M.C. shall be amended by adding the language

1 underlined to read as follows:
2

3 **Sec. 15-32. Definitions.**
4

5 As used in this article, the following words and phrases shall have the
6 following meanings, unless otherwise clearly indicated by the context:
7

8 (1) *Candidate* shall mean any person who:
9

10 a. Seeks election or re-election to any elected Charter office listed in Charter
11 section 9.2.1(A) (the offices of mayor, auditor, clerk and recorder, and member of
12 city council) and any judge of the county court who seeks to be retained in office
13 pursuant to Charter subdivision 4.1.5. A person is a candidate for election upon the
14 first to occur of the following:
15

- 16 • The person has publicly announced an intention to seek election or re-
17 election to office and the person or a candidate committee authorized
18 by the person has received contributions and contributions in-kind or
19 has made expenditures aggregating in excess of five hundred dollars
20 (\$500.00) during the election cycle; or
21
- 22 • The person has filed nominating petitions pursuant to Charter section
23 8.2.7; or
24
- 25 • The person has filed a declaration of intent to run for another term as
26 judge under Charter subdivision 4.1.5.
27

28 b. As an incumbent, an unsuccessful candidate for office, or former office
29 holder, still has a cash balance of contributions or a debt or deficit or who receives
30 contributions or contributions in-kind.
31

32
33 **SECTION 3.** That subsections 15-33 (c) and 2-72 (b), D.R.M.C. shall be amended by

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

2
3 **Sec. 15-33. Candidate affidavit, reporting, and disclosure.**

4
5 (c) All candidates, including incumbent officeholders who become candidates
6 for re-election, shall file a financial disclosure statement within fifteen (15) days after
7 becoming a candidate. The statement shall be filed with the clerk in accordance with
8 and containing the information required by section 2-72(d) and (e) of the Revised
9 Municipal Code.

10
11
12 **Sec. 2-72. Financial disclosure statement required; employee report required.**

13
14 (b) *Annual financial disclosure statement required.* Every officer as defined in
15 section 2-71 shall file a financial disclosure statement with the clerk no later than August
16 1 of each year. The report shall cover the period from January 1 to December 31 of the
17 prior year. If a person is a candidate and an officer in the same year, the person ~~shall be~~
18 ~~required to file only one report for the year~~ shall file a financial disclosure statement
19 within fifteen days of becoming a candidate in accordance with section 15-33 (c) in
20 addition to filing the annual statement required by this section.

21
22
23 **SECTION 4.** That section 15-34, D.R.M.C. shall be amended by deleting the language
24 stricken and adding the language underlined, to read as follows:

25
26
27 **Sec. 15-34. Organization of political committees.**

28
29 (a) Every political committee shall have a treasurer; the candidate shall be the
30 treasurer if no other person is appointed. No expenditure shall be made for or on behalf
31 of a political committee without the authorization of the treasurer ~~of~~ or his or her
32 designated agent.

1 (b) Every political committee shall file a statement of organization with the ~~city~~
2 ~~clerk~~ clerk and recorder no later than ten (10) days after becoming a political committee
3 as defined by section 15-32(11) of this article. The statement of organization of a
4 political committee shall include:

5
6 (1) The name and address of the political committee and the name of the
7 candidate or description of the issue that the political committee supports or
8 opposes, and any other purpose of the committee; and

9
10 (2) The name, address and telephone number of the treasurer of the political
11 committee; and

12
13 (3) A list of any financial institution or depository used by the committee.
14

15 (c) The treasurer of every political committee shall certify by affidavit filed with
16 the ~~city-clerk~~ clerk and recorder that he or she is familiar with the provisions of this
17 article. The affidavit shall be filed with the ~~city-clerk~~ clerk and recorder no later than ten
18 (10) days after the committee has become a political committee as defined in section
19 15-32(11); in the event that a treasurer is replaced, the new treasurer shall file the
20 affidavit with the ~~city-clerk~~ clerk and recorder no later than ten (10) days after being
21 appointed.
22

23 (d) Any contributions or contributions in-kind received or expenditures made by
24 the political committee during the election cycle, but prior to becoming a political
25 committee as defined by section 15-32(11) shall be reported in the first report required
26 under section 15-35.
27

28 (e) Every person who receives a contribution or contribution in-kind for a political
29 committee shall, no later than ten (10) days after receiving such contribution or
30 contribution in-kind, forward to the treasurer such contribution or contribution in-kind,
31 along with the information required by section 15-35 about the person making the
32 contribution or contribution in-kind and the date of receipt.
33

34 (f) All funds of a political committee shall be segregated from, and may not be

1 commingled with, the personal funds of any individual. All funds of a political committee
2 shall be deposited in a financial institution in an account whose title shall include the
3 name of the political committee. The account shall be used solely by the political
4 committee.

5
6 (g) The treasurer shall preserve all records required to be kept by this article and
7 copies of all reports required to be filed by this article for five (5) years after the report is
8 filed or until final disposition of any complaint and consequent litigation, whichever is
9 later. Such records are subject to public inspection at any hearing held pursuant to this
10 article.

11
12
13 **SECTION 5.** That section 15-35, D.R.M.C. shall be amended by deleting the language
14 stricken and adding the language underlined, to read as follows:

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

17
18 (a) The treasurer of each political committee shall file reports of receipts and
19 disbursements in accordance with the provisions of this section. The treasurer or his or
20 her designated agent shall sign each such report.

21
22 (b) For years in which there is an election which the political committee
23 seeks to influence by making contributions, contributions-in-kind, or expenditures,
24 the treasurer shall file the following reports:

25
26 (1) For the calendar year in which there is a general city and county election
27 and run-off election the following reports shall be filed by any candidate for
28 office or by any incumbent officeholder who is seeking re-election:

29
30 a. Monthly reports for the months of January, February, and March,
31 which shall be complete through the last day of the month and which
32 shall be filed no later than the fifth day of the following month;

33 b. A pre-election report, which shall cover the period beginning April 1
34 and shall be complete through the Wednesday prior to the general city

1 and county election and which shall be filed no later than the ~~Friday~~
2 Thursday prior to the general city and county election;

3 c. A post-election report, which shall be filed no later than the ~~Friday~~
4 Thursday prior to the scheduled date for a run-off election and which
5 shall be complete through the Wednesday prior to the schedule date
6 for a run-off election;

7 d. A post-run-off-election report, which shall be filed only by those
8 candidates listed on the run-off ballot, which shall be filed no later than
9 the thirtieth day after the run-off election, and which shall cover the
10 period from the Thursday prior to the run-off election and which shall be
11 complete through the twenty-fifth day after the run-off election; and

12 e. A year-end report, which shall be filed no later than the thirty-first
13 day of January of the following year and which shall cover the period
14 from: the Thursday prior to run-off election for those candidates not
15 listed on the ballot for the run-off election (follow-up to the post-election
16 report) through December 31; or the twenty-sixth day after the run-off
17 election for those candidates listed on the ballot for the run-off election
18 (follow-up to the post-run-off-election report) through December 31.

19
20 (2) For each month prior to a special election beginning in the month that
21 candidacy is declared the following reports shall be filed by any candidate for
22 the office or offices to be determined at the special election:

23
24 a. Monthly reports for each month prior to the special election which
25 shall be complete through the last day of the month and which shall be
26 filed no later than the fifth day of the following month;

27 b. A pre-election report, which shall cover the period beginning the
28 first of the month in which the special election is to be held and which
29 shall be complete through the Wednesday prior to the special election
30 and which shall be filed no later than the ~~Friday~~ Thursday prior to the
31 special election;

32 c. A post-election report, which shall be filed no later than the thirtieth
33 day after the special election, and which shall be complete through the
34 twenty-fifth day after the special election; and

1 d. A year-end report, which shall be filed no later than the thirty-first
2 day of January of the following year and which shall cover the period
3 from the twenty-sixth day after the special election through December
4 31.

5
6 (3) Any incumbent office holder who does not seek re-election in any year in
7 which there is a general or special city election shall file a report covering the
8 period beginning January first and ending December thirty-first of the year in
9 question, which shall be filed no later than January thirty-first of the following
10 calendar year.

11
12
13 (c) In any other calendar year a report shall be filed covering the period
14 beginning January first and ending December thirty-first, which shall be filed no later
15 than January thirty-first of the following calendar year.

16
17
18 (d) Each report required by this section shall contain the following
19 information:

20
21 (1) The amount of funds on hand at the beginning of the reporting period,
22 which amount shall include any carry-over funds from the current election
23 cycle and any prior election cycle. The beginning of the reporting period shall
24 be the date through which the prior report was complete;

25
26 (2) For the reporting period and the election cycle, the total amount of all
27 contributions and contributions in-kind to or for the political committee;

28
29 (3) The identification by name and address of each person who makes a
30 contribution or contribution in-kind to the reporting committee during the reporting
31 period and whose contributions and contributions in-kind have an aggregate
32 amount or value in excess of fifty dollars (\$50.00) within the calendar year,
33 together with the amount and date of such contribution and contribution in-kind
34 and the aggregate contribution and contribution in-kind of such person during the

1 election cycle. The reporting committee may elect to file a listing of all
2 contributions and contributions in-kind during the reporting period, but such listing
3 must include the name and address of each contributor, along with the aggregate
4 contribution and contribution in-kind of such contributor during the election cycle;

5
6 (4) The occupation and employer of any natural person if the sum of that
7 person's contribution and contribution in-kind exceeds two hundred dollars
8 (\$200.00) in a calendar year. In fulfilling the obligations of this subparagraph (4),
9 the treasurer of a political committee must show that best efforts have been used
10 to obtain the information required. The treasurer will not be deemed to have
11 exercised best efforts to obtain the required information unless he or she has
12 made at least one (1) effort per contribution or contribution in-kind, either by
13 written request or by oral request documented in writing to obtain the information
14 from the contributor. The effort shall consist of a clear request for the information
15 which informs the contributor that the reporting of the information is required by
16 law;

17
18 (5) For the reporting period and the election cycle, the total amount of all
19 expenditures;

20
21 (6) The name and address of each person to whom an expenditure in an
22 aggregate amount or value in excess of fifty dollars (\$50.00) within the calendar
23 year is made by the reporting committee on behalf of a candidate or the
24 committee, together with the date, amount, and types of goods or services
25 purchased;

26
27 (7) The name and address of any bank or other depository for funds used by
28 the political committee;

29
30 (8) The details of any loan of money, letter of credit, line of credit, or commercial
31 loan made to the reporting political committee during the reporting period,
32 including: identification of the lender or entity extending the letter of credit, line of
33 credit, or commercial loan; identification of any lender, endorser or guarantor of
34 such loan, letter of credit, line of credit, or commercial loan; the amount

1 guaranteed; the date; the amount or value of the loan, line of credit, letter of
2 credit, or commercial loan; the method of disposition of the loan, letter of credit,
3 line of credit, or commercial loan; the balance due on the loan, letter of credit,
4 line of credit, or commercial loan; and the terms of interest and the total amount
5 of interest, if any; and

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

14
15 (e) If any report required by this section is deemed to be incomplete by the ~~city~~
16 ~~clerk, the clerk~~ clerk and recorder, the clerk and recorder shall accept such report on a
17 conditional basis and shall notify the committee treasurer by mail and by telephone with
18 respect to any deficiencies found.

19
20 (f) Notwithstanding any other report required under this section, the treasurer of
21 any political committee shall file a report of any contribution or contribution in-kind of five
22 hundred dollars (\$500.00) or more received by the political committee at any time within
23 six (6) days preceding the election. Such report shall be delivered to the ~~city clerk~~ clerk
24 and recorder no later than the next business day after receipt of the contribution or
25 contribution in-kind.

26
27 (g) The reporting requirements of this section shall apply to any political
28 committee which has a cash balance of contributions or contributions in-kind or an
29 expenditure deficit. The reporting obligations of this section shall end when:

- 30 (1) The report shows no unexpended balance and no expenditure deficit; or
31 (2) The political committee has not received any contributions or contributions in-kind
32 or made any expenditures during the election cycle, provided, however, all reports for
33 the previous election cycle are complete.

1 (h) At any event at which a political committee collects contributions in a central
2 location, commonly known as fishbowl contribution, the political committee shall:

3
4 (1) Provide a sign-up sheet next to the "fishbowl" (the central location in which
5 contributions are collected) to obtain the information required by subsections 15-
6 35(d)(3) and 15-35(d)(4); and

7
8 (2) Post a sign, with the letters in the sign not to be less than one-fourth of an
9 inch in height or twenty-four (24) point type size, that has been approved by the
10 ~~city clerk~~ clerk and recorder and that describes the information required.

11
12
13 **SECTION 6.** That section 15-36, D.R.M.C. shall be amended by deleting the language
14 stricken and adding the language underlined, to read as follows:

15
16
17 **Sec. 15-36. Filing of reports.**

18
19 (a) The treasurer of a political committee shall file all reports required by this
20 article with the ~~city clerk~~ clerk and recorder.

21
22 (b) Reports required to be filed by this article shall be deemed timely filed if
23 received by the ~~city clerk~~ clerk and recorder no later than the designated day.

24
25 (c) All reports required by this article shall be open to inspection by the public during
26 regular business hours. Effective January 1, 2011, all reports required by this article shall
27 also be posted by the Clerk and Recorder on the city's internet website no later than 5
28 o'clock p.m. on the next business day following the deadline for submission of the report as
29 set forth in Section 15-35.

30
31
32 **SECTION 7.** That subsections 15-37 (e) and (f), D.R.M.C. shall be amended by deleting
33 the language stricken and adding the language underlined, to read as follows:

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

2
3 (e) No person shall make a contribution to a political committee which exceeds
4 fifty dollars (\$50.00) in currency or coin. Any portion of a contribution in currency or coin
5 which exceeds fifty dollars (\$50.00) shall be remitted by the treasurer to the ~~city clerk~~
6 clerk and recorder no later than seventy-two (72) hours after receipt, for deposit by the
7 ~~city clerk~~ clerk and recorder into the general fund of the city.

8
9 (f) Any portion of an anonymous contribution in excess of fifty dollars (\$50.00)
10 received by a political committee shall be remitted by the treasurer to the ~~city clerk~~ clerk
11 and recorder no later than seventy-two (72) hours after receipt, for deposit by the ~~city~~
12 ~~clerk~~ clerk and recorder into the general fund of the city.

13
14
15 **SECTION 8.** That section 15-38, D.R.M.C. shall be amended by the deletion of the
16 language stricken and the addition of the language underlined, to read as follows:

17
18 **Sec. 15-38. Use of campaign funds restricted.**

19
20 (a) No candidate or treasurer of a political committee may use any
21 contribution or contribution in-kind for private purposes not reasonably related to
22 influencing an election, ~~to voter registration, or to political education.~~

23
24 (b) Unexpended campaign contributions to a candidate committee may be:

25
26 (1) Contributed to a candidate committee established by the same candidate
27 for a different elected office of the city if the candidate committee making
28 such a contribution is affirmatively closed by the candidate no later than ten
29 days after the date such a contribution is made;

30
31 (2) Contributed to a candidate committee for any other candidate for elected
32 office in the city;

1 (3) Contributed to any political committee or issue committee organized to
2 support or oppose any city or state ballot question or ballot issue or any ballot
3 issue or ballot question proposed by any other local government that includes
4 territory within the city ;

5
6 (4) Donated to a charitable organization recognized by the internal revenue
7 service; or

8
9 (5) Returned to the contributors, or retained by the committee for use by the
10 candidate in a subsequent campaign for any non-partisan office.

11
12
13 (c) A candidate committee for a former officeholder or a person not elected to
14 office shall expend all of the unexpended campaign contributions retained by such
15 candidate committee, for the purposes specified in subsection (b) of this section, no
16 later than nine years from the date such officeholder's term expired or from the date
17 of the election at which such person was a candidate for office, whichever is later.

18
19 (d) In addition to any use described in paragraph (b) of this section, a person
20 elected to a public office may use unexpended campaign contributions held by the
21 person's candidate committee for any of the following purposes:

22
23 (1) Voter registration;

24
25 (2) Political education, which includes obtaining information from or providing
26 information to the electorate;

27
28 (3) Postsecondary educational scholarships;

29
30 (4) To defray reasonable and necessary expenses related to mailings and
31 similar communications to constituents;

32
33 (5) Any expenses that are directly related to such person's official duties as an
34 elected official, including, but not limited to, expenses for the purchase or

1 lease of office equipment and supplies, room rental for public meetings,
2 necessary travel and lodging expenses for legislative education such as
3 seminars, conferences, and meetings on legislative issues, and telephone and
4 pager expenses.

5
6
7 (e) Unexpended contributions to a political committee organized to support or
8 oppose a city ballot question or ballot issue may be donated to any charitable
9 organization recognized by the Internal Revenue Service or returned to the
10 contributor.

11
12
13 **SECTION 9.** That section 15-39, D.R.M.C. shall be amended by deleting the language
14 stricken and adding the language underlined, to read as follows:

15
16 **Sec. 15-39. Duties of the ~~city clerk~~ clerk and recorder.**

17
18 The ~~city clerk~~ clerk and recorder shall:

19
20 (1) Prescribe forms and provide instructional materials for reports required to be
21 filed by this article.

22
23 (2) Preserve and maintain all such reports and make them available for
24 inspection and copying under the requirements of the state Public Records Act.

25
26 (3) Notify the political committee involved if an apparent violation has been
27 found, or if a written complaint about the committee is filed with the clerk and recorder
28 pursuant to section 15-40. ~~For failure to file reports on time as required by sections 15-~~
29 ~~35(b), 15-35(c), and 15-35(f), the city clerk shall report the violation to the clerk and~~
30 ~~recorder immediately.~~ For any other violation of this article, including failure to file
31 complete reports as required by section 15-35(d), the ~~city clerk~~ clerk and recorder shall
32 allow the political committee ten (10) days to correct the violation before ~~notifying the~~
33 ~~clerk and recorder~~ proceeding to enforce this article as provided in section 15-40, except
34 that for violation of paragraph (b)(2) of section 15-35, the ~~city clerk~~ clerk and recorder

1 shall allow the political committee two (2) days in which to correct the deficiency.

2
3 (4) Audit the reports of various political committees to ensure that the reports
4 fully comply with the provisions of this article.

5
6 (5) If any apparent violation of this article is not corrected within ten (10) days as
7 provided in paragraph (3) above, ~~promptly notify~~ the clerk and recorder, ~~who~~ shall
8 proceed as provided in section 15-40.

9
10
11 **Section 10.** That Article I of Chapter 15, D.R.M.C. shall be amended by the addition of a
12 new section 15-6, to read as follows:

13
14
15 **Sec. 15-6. Automatic cancellation of certain general City and County elections.**

16
17 Any general City and County election at which no officers are scheduled to be
18 elected shall be deemed cancelled if, by sixty (60) days prior to the election date, the
19 clerk and recorder has not received and duly certified the sufficiency of any initiative or
20 referendum petition to be voted upon at the election, and the city council has not
21 transmitted to the clerk and recorder any other referred measure for the election.

22
23
24 **Section 11.** That Article 1 of Chapter 15, D.R.M.C. shall be amended by the addition of
25 a new section 15-7, to read as follows:

26
27 **Sec. 15-7. Residency of candidates for elected office.**

28
29 For purposes of any provision of the Charter requiring a candidate for office to
30 be a resident of Denver or a resident of a council district for a specified period of
31 time, residency shall be established in accordance with the following criteria:
32

1 (a) The residence of a person is the principal or primary home or place of
2 abode of a person. A principal or primary home or place of abode is that home or
3 place in which a person's habitation is fixed and to which that person, whenever
4 absent, has the present intention of returning after a departure or absence,
5 regardless of the duration of the absence. A residence is a permanent building or
6 part of a building and may include a house, condominium, apartment, room in a
7 house, or mobile home. No vacant lot or business address shall be considered a
8 residence.

9
10 (b) The residence claimed by a candidate to establish residency to run for
11 office shall be the same as the residence given for motor vehicle registration and for
12 state income tax purposes.

13
14
15
16 COMMITTEE APPROVAL DATE: February 10, 2009.

17 MAYOR-COUNCIL DATE: February 17, 2009.

18 PASSED BY THE COUNCIL February 23 2009

19 Jeanne Robb - PRESIDENT

20 APPROVED: John Hader - MAYOR February 24, 2009

21 ATTEST: Stephanie Hall - CLERK AND RECORDER,
22 EX-OFFICIO CLERK OF THE
23 CITY AND COUNTY OF DENVER
24

25 NOTICE PUBLISHED IN THE DAILY JOURNAL Feb. 20, 2009; Feb. 27, 2009

26
27 PREPARED BY: David W. Broadwell, Asst. City Attorney; DATE: February 11, 2009

28
29 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the
30 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
31 ordinance. The proposed ordinance **is not** submitted to the City Council for approval pursuant to §
32 3.2.6 of the Charter.
33

34 City Attorney

35 BY: [Signature], _____ City Attorney

36 DATE: 2/12/09

