

ARTICLE III. CAMPAIGN FINANCES¹

DIVISION 1. GENERAL CAMPAIGN FINANCE REGULATIONS

Sec. 15-31. Purpose and finding.

- (a) As a home rule city under article XX of the Colorado Constitution, the people hereby find and declare that preserving integrity and openness in the political process is a matter of the highest public interest; that the people of Denver can be better served through a more informed electorate; that the trust of the people is essential to representative government; and that public disclosure and regulation of certain campaign contributions are necessary to promote public confidence in government and to protect the integrity of the electoral process.
- (b) The people further find and declare that regulation of campaign contributions, public disclosure of political spending, and establishment of a voluntary alternative source of campaign financing in the form of limited public matching funds are required because the costs of running political campaigns have dramatically escalated in recent years, leading to a public perception that special interests and wealthy individuals may have undue influence on or access to elected officials.
- (c) It is the policy of the city to promote and encourage broad-based citizen involvement in the financing of election campaigns. The people further find and declare that providing public funds to match small donation from city residents will give a greater voice to smaller donors, thereby encouraging more citizens to get involved in the financing of election campaigns. It is also the intent of this article to foster an open political process which allows incumbents and challengers alike to compete in the marketplace of ideas on a fair and equitable basis. The people of Denver will best be served by a process which promotes the fullest and most thorough discussion and debate of issues and candidates.
- (d) The Supreme Court held in *Citizens United v FEC* that "the public has an interest in knowing who is speaking about a candidate shortly before an election," and in *McCutcheon v FEC* that disclosure of political spending is "justified based on a governmental interest in provid[ing] the electorate with information about the sources of election related spending." The people further find and declare that full and timely disclosure of political spending referring to municipal candidates and ballot issues preserved integrity and openness in the political process.
- (e) The people further find and declare that adequate enforcement of the provisions of this article is required to protect public confidence in the political process.

¹Editor's note(s)—Ord. No. 125-91, § 1, adopted Feb. 19, 1991, amended this article by repealing former §§ 15-31—15-44, 15-46, 15-49 and 15-50, which pertained generally to campaign finances and enacted similar new provisions as §§ 15-31—15-42. Formerly, §§ 15-31—15-44 derived from §§ 113.1—113.15 of the city's 1950 Code as amended by Ord. No. 363-88, § 1, adopted June 13, 1988; and Ord. No. 658-88, §§ 1, 2, adopted Oct. 24, 1988.

State law reference(s)—Campaign reform act, C.R.S. 1973, 1-45-101 et seq.

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

(Ord. No. 125-91, § 1, 2-19-91; Ord. No. 649-94, § 1, 8-22-94; Ord. No. 113-09, § 1, 2-23-09; Ord. No. 900-18, § 2, 8-27-18)

Editor's note(s)—Ord. No. 900-18, § 2, adopted August 27, 2018 and passed by the voters at the November 6, 2018 election, repealed § 15-31 and enacted a new § 15-31 as set out herein. Former § 15-31 pertained to legislative intent for general campaign finance regulations and derived from Ord. No. 125-91, § 1, adopted February 19, 1991; Ord. No. 649-94, § 1, adopted August 22, 1994; and Ord. No. 113-09, § 1, adopted February 23, 2009.

Sec. 15-32. Definitions.

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

- (a) *Candidate* shall mean any person who:
- (1) Seeks election or re-election to any elected Charter office listed in Charter section 9.2.1(A) (the offices of mayor, auditor, clerk and recorder, and member of city council) and any judge of the county court who seeks to be retained in office pursuant to Charter subdivision 4.1.5. A person is a candidate for election upon the first to occur of the following:
 - a. The person has publicly announced an intention to seek election or re-election to office and the person or a candidate committee authorized by the person has received contributions and contributions in-kind or has made expenditures aggregating five hundred dollars (\$500.00) or more during the election cycle; or
 - b. The person has filed nominating petitions pursuant to Charter section 8.2.7; or
 - c. The person has filed a declaration of intent to run for another term as judge under Charter subdivision 4.1.5.
 - (2) As an incumbent, an unsuccessful candidate for office, or former office holder, still has a cash balance of contributions or a debt or deficit or who receives contributions or contributions in-kind.
- (b) *Candidate committee* shall mean the committee authorized by a candidate to receive contributions or contributions in-kind or make expenditures on behalf of such candidate. A candidate shall have only one (1) candidate committee.
- (c) *Commercial loan* shall mean any loan of money by a commercial lending institution made in accordance with applicable law and in the ordinary course of business, but such loans shall be made on a basis which assures repayment, evidenced by a written instrument, and subject to a due date or amortization schedule, and shall bear the usual and customary interest rate of the lending institution.
- (d) *Contribution* shall mean a gift, loan, pledge or advance of money; guarantee or endorsement of loan; or letter of credit or line of credit made by any person for the purpose of influencing any election. "Contribution" includes, but is not limited to:
- (1) A transfer of money between one (1) candidate or political committee and another (which shall be a contribution to the committee which receives the money);
 - (2) The payment by any person of compensation for the personal services of another person which are rendered to a committee;

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- (3) A payment made to a third party at the request of or with the prior knowledge of a candidate, committee, or agent of either;
 - (4) A payment made after an election to meet any deficit or debt incurred during the course of a campaign;
 - (5) A loan, other than a commercial loan, to a candidate or committee, up until the time when the loan is fully paid. An unsecured loan shall be a contribution from the lender. A secured or guaranteed loan shall be a contribution from the guarantor or person whose property secures the loan; and
 - (6) An unpaid financial obligation which is forgiven.

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

- (e) *Contribution in-kind* shall mean a gift or loan of any item of real or personal property, or any other thing of value, but not including money, made to or for any candidate or committee for the purpose of influencing an election or for the purpose of disseminating newsletters related to the scope of duties of an incumbent. "Contribution in-kind" does not include services provided without compensation by any individual who volunteers on behalf of a candidate or committee or an endorsement of candidacy or issue by any person. In determining the value to be placed on contributions in-kind, a reasonable estimate of the fair market value shall be used.
- (f) *Contributor* shall mean any person who makes a contribution or contribution in-kind.
- (g) (1) *Controlled by or coordinated with a candidate committee or issue committee* means a communication that refers to a candidate or ballot issue or ballot question when:
 - a. The communication is made in cooperation or consultation with, or at the request or suggestion of, a candidate, or issue committee or agents of the candidate or committee, including any general or particular understanding with, or pursuant to any non-public communication with, the candidate, committee, or agents;
 - b. The communication is made by a person or committee that was directly or indirectly formed by, or at the request of, the candidate or issue committee or agents of the candidate or committee, or by a person or committee that is established, financed, directed or controlled by a member of the immediate family of the candidate; or
 - c. The candidate, issue committee, or agents of the candidate or committee solicit funds or appear at fundraising events on behalf of the person or committee making the communication during the same election cycle as the communication is made.
- (2) No communication shall be considered controlled by or coordinated with a candidate or issue committee if it is a news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate or the communication is a candidate or issue debate or promotion materials for such a debate.
- (3) Any communications referring to a candidate or ballot issue or ballot question that are controlled by or coordinated with a candidate or issue committee or their agents pursuant to this section are deemed to be contributions to the candidate or issue committee and are subject to all 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[s] 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 for the candidate, ballot issue or ballot question.
 - (4) Electioneering communication does not include:
 - a. Any news articles, editorial endorsements, opinion or commentary writings, or letters to the editor printed in a newspaper, magazine or other periodical not owned or controlled by a candidate or political party;
 - b. Any editorial endorsements or opinions aired by a broadcast facility not owned or controlled by a candidate or political party; or
 - c. Any communication by persons, other than committees, made in the regular course and scope of their business or any communication made by a membership organization solely to members of such organization and their families.

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- (5) An electioneering communication is made when the actual spending occurs or when there is a contractual agreement requiring such spending and the amount is determined.
- (k) *Expenditure* shall mean the purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value, made by any person for the purpose of influencing an election. Expenditure includes a transfer of money between one (1) committee and another (which shall be an expenditure by the committee that transfers the funds). An expenditure occurs when the actual payment is made. A written contract, promise or agreement to make an expenditure shall be considered and reported as an unpaid obligation if payment is thirty (30) days or more overdue.
- (l) *Independent expenditure* shall mean an expenditure made by any person for the purpose of expressly advocating the election or defeat of a candidate or supporting or opposing a ballot issue or ballot question that is not controlled by, or coordinated with, any candidate or issue committee or agent of a candidate or issue committee.
- (1) Independent expenditure does not include:
- a. Any news articles, editorial endorsements, opinion or commentary writings, or letters to the editor printed in a newspaper, magazine or other periodical not owned or controlled by a candidate;
 - b. Any editorial endorsements or opinions aired by a broadcast facility not owned or controlled by a candidate;
 - c. Any communication by persons made in the regular course and scope of their business or any communication made by a membership organization solely to members of such organization and their families.
- (2) Any expenditure that is controlled by, or coordinated with, a candidate or issue committee or agent of a candidate or issue committee, is deemed to be both a contribution by the maker of the expenditure and an expenditure by the candidate or issue committee.
- (3) An independent expenditure is made when the actual spending occurs or when there is a contractual agreement requiring such spending and the amount is determined.
- (m) *Issue committee* shall mean any committee, club, association, corporation, or other group of persons which receives contributions or contributions in-kind aggregating five hundred dollars (\$500.00) or more during an election cycle and makes expenditures aggregating five hundred dollars (\$500.00) or more during an election cycle for the major purpose of supporting or opposing one (1) or more ballot issues or ballot questions. Issue committee does not include political parties, political committees, or candidate committees as otherwise defined in this section.
- (n) *Person* shall have the same meaning as contained in section 1-2(12) of the Revised Municipal Code.
- (o) *Political committee* shall mean any committee, club, association, local political party, or other group of persons not authorized by a candidate and formed for the major purpose of making contributions to candidate, issue, or political committees, which receives contributions or contributions in-kind aggregating five hundred dollars (\$500.00) or more during an election cycle and which makes expenditures aggregating five hundred dollars (\$500.00) or more during an election cycle. Political committee includes a committee, club, association or other group which solicits contributions or contributions in-kind and places such contributions or contributions in-kind in its treasury for distribution to candidate, issue, or political committees. Political committee does not include a committee, club, association or other group which solicits individual contributions and passes those contributions along to candidate, issue, or political committees without placing the contributions in its own treasury prior to distribution to a political committee.

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- (p) *Small donor committee* means any political committee that has accepted contributions only from natural persons who each contributed no more than fifty dollars (\$50.00) in the aggregate per year. "Small donor committee" does not include political parties, issue committees, or candidate committees.

(Ord. No. 125-91, § 1, 2-19-91; Ord. No. 649-94, § 1, 8-22-94; Ord. No. 85-07, § 1, 2-26-07; Ord. No. 113-09, § 2, 2-23-09; Ord. No. 590-10, § 1, 11-1-10; Ord. No. 866-17, § 1, 9-11-17; Ord. No. 900-18, § 2, 8-27-18)

Editor's note(s)—Ord. No. 900-18, § 2, adopted August 27, 2018 and passed by the voters at the November 6, 2018 election, amended § 15-32 which will be effective January 1, 2020.

Sec. 15-33. Candidate affidavit, reporting, and disclosure.

- (a) Within ten (10) days after becoming a candidate as defined in subsection 15-32(a)(1), each candidate shall affirm to the clerk and recorder that the person is familiar with the provisions of this article.
- (b) Any contributions or contributions in-kind received or expenditures made prior to the person becoming a candidate as defined in section 15-32(a)(1), shall be reported in the first report required under section 15-35.
- (c) All candidates, including incumbent officeholders who become candidates for re-election, shall file a financial disclosure statement within ten (10) days after becoming a candidate. The statement shall be filed with the clerk in accordance with and containing the information required by section 2-72(d) and (e) of the Revised Municipal Code.

(Ord. No. 649-94, § 1, 8-22-94; Ord. No. 1098-02, § 3, 12-30-02; Ord. No. 113-09, § 3, 2-23-09; Ord. No. 590-10, § 2, 11-1-10; Ord. No. 866-17, § 2, 9-11-17)

Sec. 15-34. Organization of committees.

- (a) Every committee shall have a treasurer. For a candidate committee, the candidate shall be the treasurer if no other person is appointed. No expenditure shall be made for or on behalf of a committee without the authorization of the treasurer or his or her designated agent.
- (b) Every committee shall file a statement of organization with the clerk and recorder no later than ten (10) days after becoming a candidate, issue, or political committee. The statement of organization of a committee shall include:
- (1) The name and address of the committee and the name of the candidate or description of the issue that the committee supports or opposes, and any other purpose of the committee; and
 - (2) The name, address and telephone number of the treasurer of the committee; and
 - (3) A list of any financial institution or depository used by the committee.
- (c) The treasurer of every committee shall certify by affidavit filed with the clerk and recorder that he or she is familiar with the provisions of this article. The affidavit shall be filed with the clerk and recorder no later than ten (10) days after the committee has become a candidate, issue, or political committee; in the event that a treasurer is replaced, the new treasurer shall file the affidavit with the clerk and recorder no later than ten (10) days after being appointed.
- (d) Any contributions or contributions in-kind received or expenditures made by the committee during the election cycle, but prior to becoming a candidate, issue, or political committee shall be reported in the first report required under section 15-35.

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- (e) Every person who receives a contribution or contribution in-kind for a committee shall, no later than ten (10) days after receiving such contribution or contribution in-kind, forward to the treasurer such contribution or contribution in-kind, along with the information required by section 15-35 about the person making the contribution or contribution in-kind and the date of receipt.
 - (f) All funds of a committee shall be segregated from, and may not be commingled with, the personal funds of any individual. All funds of a committee shall be deposited in a financial institution in an account whose title shall include the name of the committee. The account shall be used solely by the committee named.
 - (g) The treasurer shall preserve all records required to be kept by this article and copies of all reports required to be filed by this article for five (5) years after the report is filed or until final disposition of any complaint and consequent litigation, whichever is later. Such records are subject to public inspection at any hearing held pursuant to this article.

(Ord. No. 125-91, § 1, 2-19-91; Ord. No. 649-94, § 1, 8-22-94; Ord. No. 113-09, § 4, 2-23-09; Ord. No. 866-17, § 3, 9-11-17)

Sec. 15-35. Reporting requirements for committees.

- (a) *General.* The treasurer of each committee, or his or her designee, shall file reports in accordance with the provisions of this section and shall attest to each report's accuracy. Each report, except for the first report, must account for the period of time between the end of the previous reporting period and the due date for the report in accordance with the applicable deadline specified below in sections 15-35(b) or (c).
- (b) *Candidate committees and political committees.*
 - (1) *General and run-off elections.* In the calendar year in which there is a general municipal election and run-off election, candidate committees and political committees shall file the following reports:
 - a. Monthly reports for the complete months of January and February, which shall be filed no later than the fifth day of the following month;
 - b. Pre-election report, as follows:
 - 1. A report for the period beginning March 1 to March 14, which shall be filed no later than March 17;
 - 2. A report for the period beginning March 15 to March 31, which shall be filed no later than April 3;
 - 3. A report for the period beginning April 1 to April 14, which shall be filed no later than April 17; and
 - 4. A report for the period of April 15 to the Wednesday before the general election, which shall be filed no later than the Friday before the general election.
 - c. A post-election report, which shall be filed no later than the Thursday before the scheduled date for a run-off election and which shall be complete through the Wednesday before the schedule date for a run-off election;
 - d. A post-run-off-election report, which shall be filed no later than the thirtieth day after the run-off election and only by those candidates listed on the run-off ballot, and which shall be complete through the twenty-fifth day after the run-off election; and
 - e. A year-end report, which shall be filed no later than the thirty-first day of January of the following year.

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1. For those candidates not listed on the run-off election ballot, this report shall cover the Thursday before the run-off election through December 31;
 2. For those candidates listed on the run-off ballot, this report shall cover the twenty-sixth day after the run-off election through December 31.
- (2) *Special elections.* For each month before a special election, beginning in the month that a candidate is declared or a candidate committee is formed for the office, the following reports shall be filed:
- a. Reports for each month before the month of the special election, which shall be filed no later than the fifth day of the following month;
 - b. A pre-election report, which shall cover the period beginning the first day of the month of the special election through the Wednesday before the special election and which shall be filed on the Thursday before the special election;
 - c. A post-election report, which shall be filed no later than the thirtieth day after the special election, through the twenty-fifth day after the special election; and
 - d. A year-end report, which shall be filed no later than the thirty-first day of January of the following year and which shall cover the period from the twenty-sixth day after the special election through December 31.
- (3) *Incumbents.* Any incumbent officeholder who does not seek re-election in any year in which there is a general or special city election shall file a report covering the period beginning January 1 and ending December 31 of the year in question, which shall be filed no later than January 31 of the following calendar year.
- (4) Non-election years within an election cycle—candidate and political committees.
- a. Beginning January 1, 2020 and for each election cycle thereafter, each committee shall, for the first two calendar years in the election cycle, file a report on or before January 31 and July 31 of each year. The report shall cover the period since the last report.
 - b. Beginning January 1, 2018 and for each election cycle thereafter, each committee shall, in the calendar year immediately before a general municipal election, file quarterly reports due no later than the fifteenth calendar day after the end of the applicable quarter.
- (c) *Issue committees.* For each month before an election, beginning in the month that an issue committee is formed, each issue committee shall file:
- (1) Reports for each month before the month of the election, which shall be filed no later than the fifth day of the following month;
 - (2) A pre-election report, which shall cover the period beginning the first day of the month of the election through the Wednesday before the election and which shall be filed on the Thursday before the election;
 - (3) A post-election report, which shall be filed no later than the thirtieth day after the election, and which shall be complete beginning with the Thursday before the election through the twenty-fifth day after the election; and
 - (4) A year-end report, which shall be filed no later than the thirty-first day of January of the following year and which shall cover the period from the twenty-sixth day after the election through December 31.
 - (5) This section 15-35(c) shall take effect January 1, 2018.
- (d) Each report required by this section shall contain the following information:

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- (1) The amount of funds on hand at the beginning of the reporting period, including any carry-over funds from the current election cycle and any prior election cycle. The beginning of the reporting period shall be the date through which the prior report was complete;
 - (2) For the reporting period and the election cycle, the total amount of all contributions and contributions in-kind to or for the committee;
 - (3) The name and address of each person who makes a contribution or contribution in-kind to the committee during the reporting period and whose contributions and contributions in-kind have an aggregate amount or value of fifty dollars (\$50.00) or more within the calendar year; the amount and date of such contribution and contribution in-kind; and the aggregate contribution and contribution in-kind of such person during the election cycle. The committee may file a listing of all contributions and contributions in-kind during the reporting period, but such listing must include the name and address of each contributor, along with the aggregate contribution and contribution in-kind of such contributor during the election cycle;
 - (4) The occupation and employer of any natural person if the sum of that person's contribution and contribution in-kind is two hundred dollars (\$200.00) or more in a calendar year. In fulfilling the obligations of this subparagraph (4), the committee's treasurer must show that he or she used best efforts to obtain the information required. "Best efforts" means that the treasurer has made at least one (1) documented effort per contribution or contribution in-kind to obtain the contributor's information and to inform the contributor that the reporting of the information is required by law;
 - (5) For the reporting period and the election cycle, the total amount of all expenditures;
 - (6) The name and address of each person to whom an expenditure in an aggregate amount or value of fifty dollars (\$50.00) or more within the calendar year is made by the committee on behalf of a candidate or the committee, together with the date, amount, and types of goods or services purchased;
 - (7) The name and address of any bank or other depository for funds used by the committee;
 - (8) The details of any loan of money, letter of credit, line of credit, or commercial loan made to the committee during the reporting period, including: identification of the lender or entity extending the letter of credit, line of credit, or commercial loan; identification of any lender, endorser or guarantor of such loan, letter of credit, line of credit, or commercial loan; the amount guaranteed; the date; the amount or value of the loan, line of credit, letter of credit, or commercial loan; the method of disposition of the loan, letter of credit, line of credit, or commercial loan; the balance due on the loan, letter of credit, line of credit, or commercial loan; and the terms of interest and the total amount of interest, if any;
 - (9) The details of any unpaid obligation of five hundred dollars (\$500.00) or more and thirty (30) days or more overdue, which is not otherwise included as a contribution or contribution in-kind, incurred by the committee during the reporting period, including: the name and address of the person to whom the obligation is due; the due date of the obligation; the purpose of the obligation; and the amount past due of the obligations; and
 - (10) If the committee is registered with the Colorado Secretary of State's campaign finance system, the committee must provide its state-assigned number.
- (e) If the clerk and recorder deems any report required by this section to be incomplete, the clerk and recorder shall accept such report on a conditional basis and shall notify the committee treasurer by mail, telephone, or email with respect to any deficiencies found.
- (f) Notwithstanding any other report required under this section, the committee's treasurer shall file a report if the committee receives any contribution or contribution in-kind of five hundred dollars (\$500.00) or more

within the six (6) days immediately preceding the election. Such report shall be filed no later than forty-eight (48) hours after receipt.

- (g) The reporting requirements of this section shall apply to any committee which has a cash balance of contributions or an expenditure deficit. The reporting obligations of this section shall end when:
 - (1) The report shows no unexpended balance and no expenditure deficit; or
 - (2) The committee has not received any contributions or contributions in-kind or made any expenditures during the election cycle, provided, however, all reports for the previous election cycle are complete.
- (h) When a committee collects contributions in a central location, commonly known as a "fishbowl" contribution, the committee shall:
 - (1) Provide a sign-up sheet next to the "fishbowl" to obtain the information required by subsections 15-35(d)(3) and 15-35(d)(4); and
 - (2) Post a sign, with the letters being at least one-fourth of an inch in height or twenty-four (24) point type size, that describes the information required.
- (i) If a reporting day falls on a weekend, legal holiday, or a City and County of Denver furlough day, the report shall be filed by the next business day. If a reporting day falls on a day when the city is fully or partially closed for business, then the report shall be filed in accordance with any and all rules or policies designated by the clerk and recorder. This provision does not apply to subsection 15-35(f) and 15-35.5(a).

(Ord. No. 125-91, § 1, 2-19-91; Ord. No. 328-91, § 1, 5-13-91; Ord. No. 612-91, § 1, 8-19-91; Ord. No. 649-94, § 1, 8-22-94; Ord. No. 1028-94, § 1, 12-12-94; Ord. No. 113-09, § 5, 2-23-09; Ord. No. 590-10, § 3, 11-1-10; Ord. No. 866-17, § 4, 9-11-17)

Sec. 15-35.5. Reporting requirements for independent expenditures and electioneering communications.

- (a) Once any person spends an aggregate of one thousand dollars (\$1,000.00) or more on either electioneering communications or independent expenditures in an election cycle, the person shall file an initial report that accounts for the first one thousand dollars (\$1,000.00) of spending. The person shall then be required to file a report for each subsequent electioneering communication or independent expenditure, regardless of the amount. The report shall be filed within forty-eight (48) hours after obligating moneys for the independent expenditure or electioneering communication.
- (b) For the purposes of this subsection, the term "election cycle" shall have the same meaning as set forth in section 15-32(h).
- (c) The report shall include the following:
 - (1) The name of the person making the communication;
 - (2) The occupation and employer of the person making the communication, if such person is a natural person;
 - (3) Whether each communication is an independent expenditure or electioneering communication;
 - (4) The date of each communication;
 - (5) The method of communication;
 - (6) The name of the candidates, ballot issues, or ballot questions referred to in the communication;

- (7) Whether the communication supports or opposes the named candidates, ballot issues or ballot questions; and
 - (8) The amount spent on each communication.
 - a. If the person used donor funds for the communication, the report shall include the name and address of any person that donated more than twenty-five dollars (\$25.00) for the purposes of making the communication.
 - b. If the person used non-donor funds for the communication, whether whole or in part, the person shall briefly describe the source of the non-donor funds. For the purposes of this section, "non-donor funds" include investment income, capital gains, regular membership dues, income earned from providing goods, services or facilities, sales of assets, or other receipts that are not donations.
 - (d) Any report filed under this section shall include a statement certifying that the reported communications were not controlled by or coordinated with any candidate or issue committee.
 - (e) A committee registered under section 15-34 does not need to file an additional report under this subsection separate from regularly filed disclosure reports listing all contributions, disbursements, and expenditures under section 15-35.
 - (f) Any communications under this section that are controlled by or coordinated with a candidate or issue committee or their agents are deemed to be contributions to the candidate or issue committee. Such communications are subject to all contribution limits, prohibitions, and reporting requirements.
- (Ord. No. 866-17, § 5, 9-11-17)

Sec. 15-36. Filing of reports.

- (a) The treasurer of any committee shall file all reports required by this article with the clerk and recorder.
 - (b) Reports required to be filed by this article shall be deemed timely filed if received by the clerk and recorder no later than 11:59 p.m. on the designated day.
 - (c) All reports required by this article shall be open to inspection by the public during regular business hours. Effective January 1, 2011, all reports required by this article shall also be posted by the clerk and recorder on the city's internet website no later than 5:00 p.m. on the next business day following the deadline for submission of the report as set forth in section 15-35.
- (Ord. No. 125-91, § 1, 2-19-91; Ord. No. 649-94, § 1, 8-22-94; Ord. No. 113-09, § 6, 2-23-09; Ord. No. 590-10, § 4, 11-1-10; Ord. No. 866-17, § 6, 9-11-17)

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

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

Office	Amount
Mayor	\$1,000.00
Auditor	\$700.00
Councilmember at large	\$700.00
Judge	\$700.00
Clerk and Recorder	\$700.00

District councilmember	\$400.00
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For the purposes of transferring money between candidate committees that are authorized by the same candidate, it is not a violation of D.R.M.C. section 15-32(b) if a candidate creates a new candidate committee for another city office, transfers money from the original committee to the new committee, and then closes the original committee no later than ten (10) days after such transfer is made.

- (2) Except for entities registered as committees pursuant to section 15-34, it shall be unlawful for any unincorporated association, corporation, limited liability company, partnership, limited political partnership, or labor organization to make contributions to a candidate committee and no candidate committee shall accept any contribution from these entities.
- (3) Each election-cycle limit on contributions and contributions in-kind described in subsection (a)(1) of this section shall be adjusted by an amount based upon the percentage change over a four-year period in the United States bureau of labor statistics consumer price index for Denver-Boulder-Greeley, all items, all consumers, or its successor index, rounded to the nearest lowest five dollars (\$5.00). The first adjustment shall be done in the second quarter of 2024 and then every four (4) years thereafter. The clerk and recorder shall calculate such an adjustment in each limit and specify the limits in rules promulgated in accordance with section 15-46.
- (b) No candidate committee shall accept any contribution or contribution in-kind from any person if that person's contributions or contributions in-kind on behalf of the candidate have an aggregate amount or value in excess of the amounts listed in section 15-37(a). Any contribution or contribution in-kind or portion thereof exceeds the limits in section 15-37(a) shall be returned to the contributor within seventy-two (72) hours of receipt.
- (c) The limitations imposed by subsections (a) and (b) of this section shall not apply to contribution of a candidate's personal funds to the candidate's own campaign, or to any loan which is personally guaranteed by the candidate or is secured by property owned by the candidate.
- (d) No person shall make a contribution to a political committee which equals or exceeds fifty dollars (\$50.00) in currency or coin. Any portion of a contribution in currency or coin of fifty dollars (\$50.00) or more shall be remitted by the treasurer to the clerk and recorder no later than seventy-two (72) hours after receipt, for deposit by the clerk and recorder into the Fair Elections Fund of the city.
- (e) Any portion of an anonymous contribution of fifty dollars (\$50.00) or more received by a political committee shall be remitted by the treasurer to the clerk and recorder no later than seventy-two (72) hours after receipt, for deposit by the clerk and recorder into the Fair Elections Fund of the city.

(Ord. No. 125-91, § 1, 2-19-91; Ord. No. 649-94, § 1, 8-22-94; Ord. No. 85-07, § 2, 2-26-07; Ord. No. 113-09, § 7, 2-23-09; Ord. No. 590-10, § 5, 11-1-10; Ord. No. 900-18, § 3, 8-27-18)

Editor's note(s)—Ord. No. 900-18, § 3, adopted August 27, 2018 and passed by the voters at the November 6, 2018 election, amended § 15-37 which will be effective January 1, 2020.

Sec. 15-38. Use of campaign funds restricted.

- (a) No candidate or treasurer of a political committee may use any contribution or contribution in-kind for private purposes not reasonably related to influencing an election.
- (b) Unexpended campaign contributions to a candidate committee may be:

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- (1) Contributed to a candidate committee established by the same candidate for a different elected office of the city if the candidate committee making such a contribution is affirmatively closed by the candidate no later than ten days after the date such a contribution is made;
 - (2) Contributed to a candidate committee for any other candidate for elected office in the city;
 - (3) Contributed to any political committee or issue committee organized to support or oppose any city or state ballot question or ballot issue or any ballot issue or ballot question proposed by any other local government that includes territory within the city;
 - (4) Donated to a charitable organization recognized by the internal revenue service; or
 - (5) Returned to the contributors, or retained by the committee for use by the candidate in a subsequent campaign for any non-partisan office.
- (c) A candidate committee for a former officeholder or a person not elected to office shall expend all of the unexpended campaign contributions retained by such candidate committee, for the purposes specified in subsection (b) of this section, no later than nine years from the date such officeholder's term expired or from the date of the election at which such person was a candidate for office, whichever is later.
- (d) In addition to any use described in paragraph (b) of this section, a person elected to a public office may use unexpended campaign contributions held by the person's candidate committee for any of the following purposes:
- (1) Voter registration;
 - (2) Political education, which includes obtaining information from or providing information to the electorate;
 - (3) Postsecondary educational scholarships;
 - (4) To defray reasonable and necessary expenses related to mailings and similar communications to constituents;
 - (5) Any expenses that are directly related to such person's official duties as an elected official, including, but not limited to, expenses for the purchase or lease of office equipment and supplies, room rental for public meetings, necessary travel and lodging expenses for legislative education such as seminars, conferences, and meetings on legislative issues, and telephone and pager expenses.
- (e) Unexpended contributions to a political committee organized to support or oppose a city ballot question or ballot issue may be donated to any charitable organization recognized by the Internal Revenue Service or returned to the contributor.

(Ord. No. 125-91, § 1, 2-19-91; Ord. No. 649-94, § 1, 8-22-94; Ord. No. 113-09, § 8, 2-23-09)

Sec. 15-39. Duties of the clerk and recorder.

The clerk and recorder shall:

- (1) Prescribe forms and provide instructional materials for reports required to be filed by this article.
- (2) Preserve and maintain all such reports and make them available for inspection and copying under the requirements of the state Public Records Act.
- (3) Except for late reports subject to section 15-40.5, notify the committee or person involved if the clerk and recorder makes a determination of an apparent violation. The receiving committee or person will have ten (10) days from the date of notice of an apparent violation to correct any violation of this article, including failure to file complete reports as required by section 15-35; except when any

violation concerning deadlines for reports during special elections occurs, then the clerk and recorder will allow the committee or person two (2) days in which to correct the deficiency. If the committee or person fails to correct the violation within the preceding timeframes, the clerk and recorder shall appoint a hearing officer to investigate the apparent violation or complaint in accordance with the procedure provided in section 15-40.

- (4) Audit reports to ensure that each filing committee or person has fully complied with the provisions of this article.
- (5) Except for late reports subject to section 15-40.5, if any apparent violation of this article is not corrected within ten (10) days as provided in paragraph (3) above, the clerk and recorder shall proceed as provided in section 15-40.

(Ord. No. 125-91, § 1, 2-19-91; Ord. No. 649-94, § 1, 8-22-94; Ord. No. 264-07, § 9, 6-11-07; Ord. No. 113-09, § 9, 2-23-09; Ord. No. 590-10, § 6, 11-1-10; Ord. No. 866-17, § 7, 9-11-17; Ord. No. 747-18, § 2, 7-30-18)

Sec. 15-40. Complaints; duties of clerk and recorder.

- (a) A resident of the City and County of Denver who believes a violation of this article has occurred may file a written complaint with the clerk and recorder no later than thirty (30) days after the violation is discoverable.
- (b) Upon receipt of a complaint, the clerk and recorder must send notice to the respondent. The respondent has thirty (30) days from the date of the notice to cure the allegations in the complaint or to respond to the complaint. In responding to the complaint, the respondent may request that the hearing officer dismiss the complaint for one (1) or more of the reasons listed in this subsection (b). If the respondent neither cures the allegations during the 30-day cure period nor requests that the complaint be dismissed, the clerk and recorder must appoint a hearing officer who is not an officer, employee, or agent of the city. The hearing officer may dismiss, in his or her discretion, a complaint that does not specifically identify the section of this article that the respondent allegedly violated or a complaint that does not assert facts sufficient to support the alleged violations. The dismissal is final and subject to review by the district court. If the hearing officer does not dismiss the complaint, the clerk and recorder must fix a date for the hearing, which must be concluded no later than thirty (30) days from the date the cure period concluded.
- (c) The hearing officer has the authority and ability to issue subpoenas as necessary. Any subpoena issued is enforceable in the county court.
- (d) The respondent and complainant may present evidence to the hearing officer in the form of testimony, documents, rebuttal testimony, and opening and closing statements. The hearing officer is entitled to examine any witness and request the submission of additional evidence and arguments.
- (e) The hearing officer must determine by a preponderance of the evidence if a violation of this article has been committed. Upon a finding against a respondent, the hearing officer must enter a decision and order any necessary relief, if applicable. The decision of the hearing officer is final and subject to review by the district court. The clerk and recorder and the hearing officer are not necessary parties to the review.
- (f) The clerk and recorder may promulgate any rules necessary for the proper administration of campaign finance complaints, cures, and hearings including, but not limited to, any rules necessary to ensure the complaint, cure, and hearing process is a simplified and scalable process designed to enhance the just, speedy, and efficient determination of complaints.

(Ord. No. 125-91, § 1, 2-19-91; Ord. No. 649-94, § 1, 8-22-94; Ord. No. 264-07, § 10, 6-11-07; Ord. No. 747-18, § 3, 7-30-18)

Sec. 15-40.5. Fines for late reports; waiver; appeal.

- (a) *Fines imposed.* If a person or committee fails to timely file a report, the clerk and recorder's office will penalize the offending party fifty dollars (\$50.00) per day for each calendar day that the report is late. For all persons or committees, a fine for a single violation will not exceed five hundred dollars (\$500.00) per filing deadline violation.
- (b) *Waiver.*
 - (1) A fined party may request a waiver or reduction of the fine within ten (10) calendar days of the fine's final accrual. The request must include the following information:
 - a. The reason for the delinquency, including all relevant factors related to it;
 - b. Remedial actions the filer has taken to avoid future delinquencies; and
 - c. Any other information the requestor deems relevant to the request.
 - (2) The clerk and recorder's office will consider the waiver request and respond to the requestor with a written final decision within five (5) business days.
 - (3) Before issuing a final decision, the clerk's office may consider:
 - a. The requestor's history of delinquency;
 - b. Circumstances that made complying with the deadline an impossibility;
 - c. Outstanding penalties;
 - d. Whether the city's database was unavailable to the committee; and
 - e. The date when the requestor filed the waiver.
- (1) Any person or committee who disputes the final amount of a penalty imposed against that person or committee may petition the clerk and recorder for a hearing concerning such determination no later than thirty (30) days after having been notified of any such decision. The hearing will be resolved by administrative hearings procedures pursuant to section 56-106(b)—(f) with the clerk and recorder or a hearing officer appointed by the clerk to serve as the designated official in the stead of the manager of transportation and infrastructure.
- (2) If a candidate for the office of the clerk and recorder requests a waiver, the clerk and recorder's office will refer the matter to the office's compliance officer.
- (d) *Unpaid debts.* Any unpaid debt owing to the city resulting from a penalty imposed under this section shall be collected by the city in accordance with the requirements of section 53-13.

(Ord. No. 866-17, § 8, 9-11-17; Ord. No. 39-20, § 22, 2-3-20)

Sec. 15-41. Penalties.

- (a) Except as provided in this section, failure to comply with the provisions of this article shall have no effect on the validity of any election, issue, or bonds issued pursuant to law.
- (b) Upon determination by a court of competent jurisdiction, any violation of sections 15-35, 15-36, and 15-37 of the Revised Municipal Code shall be considered a violation of section 8.1.5 of the Charter. The candidate shall forfeit his or her right to assume office to which he or she may have been elected. If the person has already assumed office, the office shall be vacated as provided under Charter section 8.2.15. Any vacancy created by the operation of this subsection shall be filled as provided in section 8.2.15 of the Charter.

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- (c) Any person who knowingly violates any provision of this article or who gives or accepts any contribution or contribution in-kind in such a way as to hinder or prevent identification of the true donor, in addition to any other penalties provided by law, shall be subject to the penalty in section 1-13 of the Revised Municipal Code.

(Ord. No. 125-91, § 1, 2-19-91; Ord. No. 649-94, § 1, 8-22-94; Ord. No. 590-10, § 7, 11-1-10; Ord. No. 866-17, § 9, 9-11-17; Ord. No. 747-18, § 4, 7-30-18)

Sec. 15-42. Responsibility for communications.

Whenever any person makes an expenditure for the purpose of financing communications expressly advocating a particular result in an election, or solicits any contribution or contribution in-kind through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, such communication:

- (a) If paid for and authorized by a candidate, candidate committee, issue committee, political committee or their agents, shall clearly state that the communication is paid for by that candidate, candidate committee, issue committee, or political committee;
- (b) If paid for by other persons but authorized by a candidate, a candidate committee, issue committee, political committee or their agents, shall clearly state that the communication is paid for by such other persons and authorized by the candidate, candidate committee, issue committee, or political committee; or
- (c) If paid for by a person as an independent expenditure or electioneering communication, shall clearly state both the full name of the person making the expenditure and that the advertisement or material is not authorized by the candidate, candidate committee, issue committee, or political committee.

(Ord. No. 125-91, § 1, 2-19-91; Ord. No. 649-94, § 1, 8-22-94; Ord. No. 134-98, § 1, 3-2-98; Ord. No. 866-17, § 10, 9-11-17)

Sec. 15-43. Reserved.

Editor's note(s)—Ord. No. 726-06, § 2, adopted Nov. 6, 2006, repealed section 15-43 in its entirety. Former section 15-43 pertained to limitations on contributions or contributions in-kind by city agencies and was derived from the Code of 1950, § 113.16; Ord. No. 649-94, § 1, adopted Aug. 22, 1994.

Sec. 15-44. Expenditures for political advertising; rates and charges.

- (a) It shall be unlawful for any person who is a candidate, campaign treasurer, or campaign committee to pay any radio or television station, newspaper, periodical, or other supplier of materials or services a higher charge than that normally required for local commercial customers for comparable use of space or materials and services.
- (b) It shall be unlawful for any radio or television station, newspaper, periodical, or other supplier of materials and services to rebate any such rate, directly or indirectly.
- (c) Nothing in this section shall be construed to prevent an adjustment in rates related to frequency, volume, production costs, and agency fees, provided such adjustment is a normal charge paid by other persons who are advertisers.

(Code 1950, § 113.18; Ord. No. 649-94, § 1, 8-22-94)

Sec. 15-45. Encouraging withdrawal from campaign prohibited.

- (a) It shall be unlawful for any person to pay, cause to be paid, or attempt to pay to any candidate or to any candidate committee any money or any other thing of value for the purpose of encouraging a candidate to withdraw his or her candidacy.
- (b) It shall be unlawful for any person who is a candidate to offer to withdraw his or her candidacy in return for money or any other thing of value.

(Code 1950, § 113.19; Ord. No. 649-94, § 1, 8-22-94)

Sec. 15-46. Rules and regulations.

The clerk and recorder may adopt rules and regulations necessary for the implementation of this article III. Such rules shall be promulgated in accordance with D.R.M.C. chapter 2, article VI.

(Ord. No. 590-10, § 8, 11-1-10)

Sec. 15-47. Municipal elections activity—Limitations on municipal officers and elected officials.

- (a) No city agency, department, board, division, bureau, commission, or council may make a contribution in a campaign for the nomination, retention, election, or recall of a person to a public office in an election, nor may such entity expend public moneys from any source, or make a contribution, to urge electors to vote for or against a:
 - (1) Ballot issue or ballot question, after the clerk and recorder has approved the contents of the affidavit, ballot title, and petition sample, as specified in section 8.3.2 of the Charter;
 - (2) Referred measure; or
 - (3) Measure for the recall of an elected officer, after the clerk and recorder has approved the contents of the affidavit, ballot title, and petition sample, as specified in section 8.3.2 of the Charter.
- (b) No incumbent candidate or city employee may use city time, resources, or monies in furtherance of a campaign for the nomination, retention, election, or recall of a person to a public office in a municipal election, nor may such entity expend public moneys from any source, or make a contribution, to urge electors to vote for or against a:
 - (1) Ballot issue or ballot question that has been submitted and has had a title fixed;
 - (2) Referred measure; or
 - (3) Measure for the recall of an elected officer, upon the final determination of sufficiency.
- (c) Nothing in subsections (a) or (b) prohibits a city agency, department, board, division, commission, council, or elected or appointed official from responding to questions about an issue, question, or measure described in subsections (a) and (b) if an appointed official, member or employee of the public entity, or public entity did not solicit the question. An elected or appointed official, member or employee of any such agency, department, board, division, commission, or council who has policy-making responsibilities may expend fifty dollars (\$50.00) or less of public moneys in the form of letters, telephone calls, or other activities incidental to expressing his or her opinion on any such issue described in subsection (a).

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- (d) Nothing in subsection (a) prohibits a city agency, department, board, division, commission, or council from expending public moneys to provide the language of the ballot title, to provide the text of the measure, or to dispense a factual summary that includes arguments both for and against the proposal, on an issue of official concern before the electorate in the city. The summary may not contain a conclusion or opinion for or against an issue. As used in this subsection (d), "an issue of official concern" means an issue that will appear on a municipal election ballot.
 - (e) Nothing in subsection (a) prohibits city council from expending public moneys or resources in accordance with section 15-11(e)(5)(b), DRMC.
 - (f) Nothing in subsection (b) prohibits an elected official from expressing a personal opinion on an issue.
 - (g) Nothing in subsection (a) prohibits a city agency, department, board, division, commission, or council from:
 - (1) Passing a resolution or analyzing and commenting on an issue described in subsection (a); or
 - (2) Reporting the passage of or distributing such resolution through established, customary means, other than paid advertising, by which information about other proceedings of the city agency, department, board, division, commission, or council is regularly provided to the public.
 - (h) Nothing in subsection (b) prohibits a member or an employee of a city agency, department, board, division, commission, or council from expending personal funds, making a contribution, or using personal time to urge electors to vote for or against an issue, question, or measure described in subsection (b).
 - (i) If a candidate who is also an incumbent inadvertently or unavoidably expends public moneys for campaign purposes, the candidate must reimburse the city for the amount of money spent for campaign purposes.
 - (j) A resident of the City and County of Denver who believes there has been a violation of this section may file a complaint with the clerk and recorder in accordance with section 15-40. Appropriate relief shall be an order from the hearing officer directing the person who made or caused to be made the contribution or expenditure in violation of this section to reimburse the fund of the city from which the moneys were diverted for the amount of the contribution or expenditure or injunctive relief enjoining the continuance of the violation.

(Ord. No. 747-18, § 1, 7-30-18)

DIVISION 2. DENVER FAIR ELECTIONS ACT²

Sec. 15-48. Purpose and findings.

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

(Ord. No. 900-18, § 4, 8-27-18)

Sec. 15-49. Definitions.

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

²Editor's note(s)—Ord. No. 900-18, § 4, adopted August 27, 2018 and passed by the voters during the November 6, 2018 election, added div. II, §§ 15-48—15-60 which will be effective January 1, 2020.

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- (1) "Fund" means the Fair Elections Fund created by section 15-52.
 - (2) "Match-eligible contribution" means any contribution subject to the limits in section 15-54 to a participating candidate from a Denver resident who is a natural person, not to exceed fifty dollars (\$50.00) per contributor.
 - (3) "Participating candidate" means a candidate running in a general or special election for the office of mayor, city council, clerk and recorder, judge, and auditor who has been certified by the clerk and recorder to participate in the fair elections campaign funding program.
 - (4) "Qualifying contribution" means a contribution received during the qualifying period of at least five dollars (\$5.00), but not greater than the limits in section 15-54, to a candidate running for the office of mayor, judge, city council, clerk and recorder, and auditor from a Denver resident who is a natural person.
 - (5) "Qualifying period" means the period beginning on the January 1 immediately following the most recent election for the specific office and ending fifty (50) days before the election date. The qualifying period for any special or vacancy election starts the day that notice has been made for the special or vacancy election and ends on the date of certification or fifty (50) days before the election date.

(Ord. No. 900-18, § 4, 8-27-18)

Sec. 15-50. Severability.

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

(Ord. No. 900-18, § 4, 8-27-18)

Sec. 15-51. Fair Elections Fund.

- (a) *Establishment of the Fair Elections Fund.* A special, dedicated Fair Elections Fund is established for the purpose of:
 - (1) Providing public financing for the election campaigns of certified participating candidates; and
 - (2) Paying for the administrative costs of city staff related to the Fair Elections Act public campaign funding program.
- (b) *Appropriations to the Fair Elections Fund.*
 - (1) The city shall annually appropriate two dollars and eighty-eight cents (\$2.88) per City of Denver resident per year, as determined by the most recent official United States Census Bureau Population Estimate for the City of Denver, from the city general fund to the Fair Elections Fund. The mayor and council's duty to appropriate funds for the public financing program shall cease upon the termination of the public financing program. Appropriations to the Fund shall be encumbered to satisfy the obligation created by subsection (a) of this section pursuant to Charter section 7.2.3 until the maximum amount allowed in the Fair Elections Fund is reached pursuant to subsection (b)(3) of this section.
 - (2) Other sources of revenue in the Fund shall include:

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- a. Unspent funds distributed to any participating candidate who does not remain a candidate until the election for which they were distributed, or such funds that remain unspent by a participating candidate;
 - b. Other funds appropriated by the mayor and city council;
 - c. Unexpended campaign contributions from any candidate or political committee.
 - d. Any interest generated by the Fund; and
 - e. Any other sources of revenue determined as necessary by the city council.
- (3) The amount in the Fair Elections Fund shall not exceed eight million dollars (\$8,000,000.00). To comply with this limitation, revenue that would otherwise be deposited in the Fair Elections Fund pursuant to subsections (a) and (b) shall instead be deposited in the general fund.
- (4) The city council may, by adoption of an ordinance by not less than a two-thirds ($\frac{2}{3}$) vote of its membership, make an official declaration of fiscal emergency and suspend or reduce the amount of the annual appropriation specified in this subsection.
- a. Any such ordinance suspending or reducing the annual appropriation shall be effective for no more than one (1) year.
 - (c) *Periodic adjustments to appropriations.* The dollar amounts specified in subsection (b) of this section and the aggregate amounts in section 15-56 (b) shall be adjusted by an amount based upon the percentage change over a four-year period in the United States bureau of labor statistics consumer price index for Denver-Boulder-Greeley, all items, all consumers, or its successor index, rounded to the nearest lowest five dollars (\$5.00). The first adjustment shall be done in the second quarter of 2024 and then every four (4) years thereafter.

The clerk and recorder shall calculate such adjustments.

(Ord. No. 900-18, § 4, 8-27-18)

Sec. 15-52. Offices covered.

- (a) Candidates for the office of mayor, city council, clerk and recorder, judge, and auditor shall be eligible to participate in the public campaign financing program established by this division, pursuant to the restrictions, requirements, and provisions specific to these respective offices.

(Ord. No. 900-18, § 4, 8-27-18)

Sec. 15-53. Eligibility for fair elections campaign funding.

- (a) To be eligible to be certified as a participating candidate, a candidate must:
 - (1) Before the end of the qualifying period for the election involved, file with the clerk and recorder an application for certification as a participating candidate, containing the identity of the candidate, the office that the candidate seeks, and the candidate's signature, under penalty of perjury, certifying that:
 - a. The candidate has complied with the restrictions of this chapter during the election cycle to date;
 - b. The candidate's campaign committee has filed all campaign finance reports required by law during the election cycle to date and that they are complete and accurate; and

- c. The candidate will comply with the requirements of this division during the remainder of the election cycle and, specifically, if certified as a participating candidate, will comply with the requirements applicable to participating candidates.
- (2) Before the close of the qualifying period, ensure that the following number of qualifying contributions from unique contributors have been collected by the candidate or the candidate's campaign committee;
 - a. For the office of mayor: Two hundred fifty (250).
 - b. For the office of city council, auditor, judge, or clerk and recorder: 100.
- (3) Ensure that each qualifying contribution shall be acknowledged by a receipt to the contributor, with a copy retained by the candidate for a period of two (2) years after the election for which he or she is a candidate. The receipt shall include the contributor's printed name, home address, and telephone number, if any, and the name of the candidate on whose behalf the contribution is made. In addition, the receipt shall indicate that the contributor understands that the purpose of the contribution is to help the candidate qualify for fair elections campaign funding, that the contribution up to fifty dollars (\$50.00) will be matched by the Fund by nine hundred (900) percent, and that the contribution is made without coercion or reimbursement. A copy of completed receipts for all qualifying contributions shall be submitted with the application for certification as a participating candidate, and any contribution for which a candidate has not obtained a fully completed receipt shall not be counted as a qualified contribution. This application shall include a signed statement from the candidate indicating that all information on the qualifying contribution receipts is complete and accurate to the best of the candidate's knowledge.
- (4) After ballot certification, be in a race with at least one (1) other candidate for that office.

(Ord. No. 900-18, § 4, 8-27-18)

Sec. 15-54. Requirements for participation in the fair elections program.

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

Mayor	\$500.00
Councilmember-at-large, Judge, Clerk and Recorder, Auditor	\$350.00
District councilmember	\$200.00

- (b) Participating candidates and candidates seeking certification may accept contributions only from natural persons or a small donor committee, as defined in section 15-32 (p), and may not accept contributions from any local, state, or federal issue, candidate, or political committee. A participating candidate or a candidate seeking certification may not accept contributions from a small donor committee in the aggregate in excess of ten (10) times the contribution limit for participating candidates for the office that the candidate seeks.
- (c) Participating candidates shall obtain and maintain and issue receipts for all match-eligible contributions retained by the candidate for a period of two (2) years after the election. The receipt shall include the contributor's printed name, home address, and telephone number, if any, and the name of the candidate on whose behalf the contribution is made. In addition, the receipt shall indicate that the contributor understands that the contribution up to fifty dollars (\$50.00) will be matched by the Fund by nine hundred (900) percent, and that the contribution is made without coercion or reimbursement.

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- (d) Participating candidates and candidates seeking certification shall obtain and furnish to the clerk and recorder any information the clerk may request relating to campaign expenditures or contributions and furnish such documentation and other proof of compliance with this chapter as may be requested by the clerk; and
- (e) (1) Participating candidates must agree to participate in at least two (2) public debates with opponents in the general election and at least one (1) public debate with the opponent in a run-off election if offered. For purposes of this section, a "debate" means the moderated reciprocal discussion of issues among candidates on the ballot for the same office. If there is only one (1) candidate for a given office on the ballot, then no debate for that given office shall be held pursuant to this section.
- (2) Each debate held pursuant to this section shall be at least one (1) hour's duration. The clerk and recorder's office shall select one (1) or more sponsors for each debate required pursuant to this section. Organizations that are not affiliated with any political party or with any holder of or candidate for public office and that have not endorsed any candidate in the election shall be eligible to sponsor one (1) or more of the required debates. The rules for conducting such debates, and the date, time, and location of such debates, shall be solely the responsibility of the organizations selected but shall not be made final without consultation with the clerk and recorder's office.
- (3) Written applications by organizations to sponsor a debate shall be submitted to the clerk and recorder's office on a form provided by the clerk not later than a date chosen by the clerk and recorder in any year in which a municipal election is held with the parameters that the debate takes place after the ballot is certified and before ballots are mailed. The written application shall:
- (i) Demonstrate that the organization and any proposed co-sponsor meet the criteria established in this section;
 - (ii) Specify any elections and offices for which the organization seeks to sponsor debates;
 - (iii) Set forth proposed dates, times, durations, and locations of the debates and the specific and exclusive circumstances under which the dates or times may be changed, together with a provision for when the rescheduled debates will be held;
 - (iv) Provide a detailed description of the format and ground rules for the debates;
 - (v) Verify that the staging, promotion, and coverage of the debates shall be in conformance with all applicable laws;
 - (vi) Include an agreement to indemnify the city for any liability arising from the acts or omissions of the sponsor; and
 - (vii) Set forth plans for publicity and for broadcast and other media coverage for the debates.
- (f) Participating candidates and candidates seeking certification must comply with all requirements for candidate affidavits, organization, registration, and reporting for candidate committees in sections 15-33 and 15-35.
- (g) Participating candidates may not donate to their own campaigns in an aggregate amount greater than the limits in section 15-54(a). However, a participating candidate may personally loan his or her own campaign seed money up to five thousand dollars (\$5,000.00). Any money loaned must be repaid by the campaign from the account that does not include public monies. Any portion of the loan not repaid is deemed a contribution and must comply with applicable contribution limits and reporting requirements.
- (h) Participating candidates must refund any unexpended money received from the Fair Elections Fund back to the Fair Elections Fund no later than sixty (60) days after the candidate publicly announces or notifies the clerk and recorder of their withdrawal from the race, or by the last day in the election cycle, whichever occurs first.

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- (i) Participating candidates must maintain and certify to the clerk and recorder two (2) separate bank accounts. The candidate must use one (1) bank account for all public monies received from the Fund and a second account for all other campaign loans and contributions.

The restrictions contained in section 15-38 apply to both accounts maintained in accordance with this provision.

(Ord. No. 900-18, § 4, 8-27-18)

Sec. 15-55. Certification of participating candidates by clerk and recorder.

- (a) No later than ten (10) business days after a candidate files with the clerk and recorder an application for certification as a participating candidate, the clerk and recorder shall notify the candidate whether the application is approved.
- (b) If the clerk and recorder determines that a candidate is not certified, the candidate is not required to comply with provisions of this division applicable only to participating candidates as of the date of the clerk's notice.
- (c) The clerk and recorder's determination on the application for certification is a final action subject to judicial review.
- (d) A participating candidate's initial request for funds from the Fair Elections Fund within the application for certification as a participating candidate shall be made using a form prescribed by the clerk and recorder and shall be accompanied by qualifying contribution receipts and any other information the clerk and recorder deems necessary. The clerk and recorder shall verify that a candidate's qualifying contributions meet all the requirements and restrictions of this division before the disbursement of funds from the Fair Elections Fund to the candidate.

(Ord. No. 900-18, § 4, 8-27-18)

Sec. 15-56. Fair Elections Fund payments.

- (a) Participating candidates shall receive payment of funds from the Fair Elections Fund equal to nine-hundred percent (900 percent) of the amount of match-eligible contributions up to fifty dollars (\$50.00) received by the candidate during the election cycle with respect to a single election, subject to the aggregate limit on the total amount of Fair Elections Fund payments to a candidate specified in subsection (b). The maximum match is \$50 per donor per candidate in an election cycle.
- (b) The aggregate amount of Fair Elections Fund payments that may be made to a participating candidate during an election cycle may not exceed:
 - (1) Seven hundred fifty thousand dollars (\$750,000.00) for a candidate running for the office of mayor;
 - (2) Two hundred fifty thousand dollars (\$250,000.00) for a candidate running for the office of councilmember-at-large, clerk and recorder, judge or auditor; and
 - (3) One hundred twenty-five thousand dollars (\$125,000.00) for a candidate running for a district councilmember.
- (c) The clerk and recorder must authorize payments in accordance with the following schedule:
 - (1) The clerk must authorize payment of the eligible monies on the August 15 immediately preceding the regularly scheduled municipal general election;
 - (2) Subsequent payments must be authorized in conjunction with the due date of the campaign finance reports filed by candidates during the year of a regularly scheduled municipal general election;

(Supp. No. 142, Update 10)

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- (3) The clerk must authorize payment of any remaining eligible monies due to the candidate on the fourteenth day before the election.
- (d) The clerk and recorder shall provide each participating candidate with a written determination specifying the basis for any non-payment of funds from the Fair Elections Fund. The clerk and recorder shall provide participating candidates with a process by which they may immediately upon receipt of such determination petition the clerk and recorder for reconsideration of any such non-payment and such reconsideration shall occur within five (5) business days of the filing of such petition.
- (Ord. No. 900-18, § 4, 8-27-18)

Sec. 15-57. Run-off elections.

Notwithstanding any other provision of this division, a participating candidate in a run-off election held pursuant to article VIII part 2., section 8.2.21 and part 3., section 8.3.5 of the Denver Charter shall obtain prompt payment for qualified campaign expenditures in an amount equal to twenty-five cents (\$.25) for each one dollar (\$1.00) of public funds paid pursuant to this chapter to the candidate's principal committee for the preceding election. Run-off funds do not count against the aggregate limit in section 15-54.

(Ord. No. 900-18, § 4, 8-27-18)

Sec. 15-58. Insufficient funds in the program.

If the clerk and recorder determines that there are insufficient funds in the Fair Elections Fund to fund adequately all participating candidates, the clerk and recorder shall notify participating candidates that the clerk and recorder will not likely be capable of distributing to all participating candidates the maximum aggregate amount of Fair Elections Fund payments permissible under section 15-54. Under such circumstances, at such time as the clerk and recorder is unable to fulfill a valid application for funds from the Fair Elections Fund submitted by a participating candidate pursuant to sections 15-53(a) and 15-54 the participating candidate may solicit for such candidate's committee and accept contributions under the limit for candidates not participating in the program, and is no longer subject to the requirements for participating candidates in sections 15-53 and 15-54.

(Ord. No. 900-18, § 4, 8-27-18)

Sec. 15-59. Duties of the clerk and recorder—Violations—Persons ineligible for public funds— Time limit.

- (a) The clerk and recorder shall:
- (1) Adopt rules and regulations if necessary for the implementation of this division of article III. Such rules shall be promulgated in accordance with D.R.M.C chapter 2, article VI.
 - (2) Prescribe forms and provide instructional materials for reports required to be filed by this division.
 - (3) Preserve and maintain all such submissions pursuant to this division and make them available for inspection and copying under the requirements of the state Public Records Act, and maintain an online repository of all information filed pursuant to this division which may be accessed by the public through the clerk's website.
 - (4) Notify any committee or person involved if the clerk and recorder makes a determination of an apparent violation of this division, or if a written complaint about the committee or person is filed with the clerk and recorder pursuant to section 15-40 regarding compliance with this division.

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- (5) Audit the filings or submissions of various candidate committees as needed to ensure that the committees fully comply with the provisions of this division.
 - (b) Complaints and duties of the clerk and recorder regarding potential violations of this article shall be governed by the provisions in Sections 15-40 and 15-41.
 - (c) If a participating candidate violates any portion of this division, the candidate, in the hearing officer's discretion, may be ordered to return any public matching funds previously received, may be ineligible to receive any further matching funds for that election, and may be subject to a civil penalty.
- (Ord. No. 900-18, § 4, 8-27-18)

Sec. 15-60. Effective date and applicability.

- (a) This bill takes effect only upon the withdrawal of the "Democracy for the People" initiative from the ballot for the special municipal election to be held at the same time and in conjunction with the November 6, 2018, general election and applies to all municipal elections beginning with the municipal election cycle beginning on January 1, 2020.
- (Ord. No. 900-18, § 4, 8-27-18)