

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2013

COUNCIL BILL NO. CB13-0861
COMMITTEE OF REFERENCE:
GOVERNMENT AND FINANCE

A BILL

For an ordinance relating to Chapter 53 (Taxation and Miscellaneous Revenue) of the Revised Municipal Code, to standardize the confidentiality provisions for the taxes imposed in Articles II through VIII.

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

Section 1. Section 53-8 of the Revised Municipal Code is enacted and added to read as follows:

Sec. 53-8. Information to be confidential.

- (a) Except in accordance with judicial order or as otherwise provided by law, the manager, and those working under the manager's supervision, shall not divulge any information gained from any investigation conducted under this chapter or disclosed in any document, report or any return filed in connection with the taxes levied under the provisions of this chapter.
- (b) The officials charged with the custody of such documents, reports or returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the manager in an action under the provisions of this chapter to which the manager is a party, or on behalf of any party to an action or proceeding under the provisions of this chapter or to punish a violator thereof when the report of facts shown by such report is directly involved in such action or proceeding, in any of which events the court may require the production of, and may admit in evidence, so much of said documents, reports or returns, or of the facts shown thereby, as are pertinent to the action or proceeding and no more.
- (c) Nothing contained in this chapter shall be construed to prohibit:
- (1) the delivery to a person or a duly authorized representative of a copy of any document, report or return filed in connection with that person's tax;
 - (2) the publication of statistics so classified as to prevent the identification of particular documents, reports or returns and the items thereof;
 - (3) the inspection by employees of the city under the control of the manager or by the city attorney or any other legal representative of the city of the document, report or

return of any person who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding is contemplated or has been instituted under this chapter;

(4) the manager, in the manager's discretion, from supplying and disclosing information gained from any investigation conducted under this chapter or reported, scheduled or disclosed in any document, report or return filed in connection with the taxes levied under the provisions of this chapter for inspection or copying to the executive director of the state department of revenue, to the commissioner of internal revenue of the United States government, or to the official responsible for collecting similar taxes in any political subdivision of the state; provided, however, that such official of a political subdivision of the state similarly be permitted by law to disclose and supply information relating to the imposition and collection of similar taxes gained from persons within or doing business within such political subdivision; and

(5) the manager, in the manager's discretion, from supplying or disclosing information gained from any investigation conducted under this chapter or reported, scheduled or disclosed in any document, report or return filed in connection with the taxes levied under the provisions of this chapter for inspection or copying to any department of the city dealing with matters of taxation, revenue, trade, commerce, or licensing, or the auditing of any of the foregoing; provided however, such disclosure shall be permitted only upon written request by the head of such department, and only to the representatives of such department designated in such written request as the individuals to receive and inspect such information on behalf of such department and such representatives shall not divulge such information except in accordance with judicial order or as otherwise provided by law.

(d) Reports and returns shall be preserved for three (3) years and thereafter until the manager orders them destroyed.

(e) The manager, those working under the manager's supervision, and those who receive information pursuant to subsection (c)(5), who shall divulge any information classified in this chapter as confidential in any manner, except in accordance with proper judicial order or as otherwise provided by law, shall be guilty of a violation of this chapter.

Section 2. Section 53-44 of the Revised Municipal Code, which currently reads as follows, is repealed in its entirety:

1 ~~Sec. 53-44. Information to be confidential.~~

2 ~~(a) Except in accordance with judicial order or as otherwise herein provided, the manager,~~
3 ~~and those working under his supervision, shall not divulge any information gained from~~
4 ~~any investigation conducted under this article or disclosed in any document, report or any~~
5 ~~return filed in connection with the tax levied under the provisions of this article.~~

6 ~~(b) The officials charged with the custody of such documents, reports or returns shall not be~~
7 ~~required to produce any of them or evidence of anything contained in them in any action~~
8 ~~or proceeding in any court, except on behalf of the manager in an action under the~~
9 ~~provisions of this article to which the manager is a party, or on behalf of any party to an~~
10 ~~action or proceeding under the provisions of this article or to punish a violator thereof~~
11 ~~when the report of facts shown by such report is directly involved in such action or~~
12 ~~proceeding, in any of which events the court may require the production of, and may~~
13 ~~admit in evidence, so much of said documents, reports or returns, or of the facts shown~~
14 ~~thereby, as are pertinent to the action or proceeding and no more.~~

15 ~~(c) Nothing contained in this article shall be construed to prohibit the delivery to a person or~~
16 ~~his duly authorized representative of a copy of any return or report filed in connection with~~
17 ~~that person's tax, nor to prohibit the publication of statistics so classified as to prevent the~~
18 ~~identification of particular reports or returns and the items thereof, nor to prohibit the~~
19 ~~inspection by employees of the city under the control of the manager or by the city~~
20 ~~attorney of the city or any other legal representative of the city of the report or return of~~
21 ~~any person who shall bring action to set aside or review the tax based thereon, or against~~
22 ~~whom an action or proceeding is contemplated or has been instituted under this article;~~
23 ~~nor to prohibit the manager, in his discretion, from supplying and disclosing information~~
24 ~~gained from any investigation conducted under this article or reported, scheduled or~~
25 ~~disclosed in any document, report or return filed in connection with the tax levied under~~
26 ~~the provisions of this article for inspection or copying to the executive director of the state~~
27 ~~department of revenue, to the commissioner of internal revenue of the United States~~
28 ~~government, or to the official responsible for collecting sales or use taxes in any political~~
29 ~~subdivision of the state; provided, however, that such official of a political subdivision of~~
30 ~~the state similarly be permitted by law to disclose and supply information relating to the~~
31 ~~imposition and collection of sales or use taxes gained from persons within or doing~~
32 ~~business within such political subdivision.~~

33 ~~(d) Reports and returns shall be preserved for three (3) years and thereafter until the~~

1 ~~manager orders them destroyed.~~

2 ~~(e) Any city officer or employee who shall divulge any information classified herein as~~
3 ~~confidential in any manner, except in accordance with proper judicial order or as~~
4 ~~otherwise provided by law, shall be guilty of a violation of this article.~~

5 **Section 3.** Section 53-112 of the Revised Municipal Code, which currently reads as
6 follows, is repealed in its entirety:

7 ~~**Sec. 53-112. Tax information to be confidential.**~~

8 ~~(a) Except in accordance with judicial order or as otherwise herein provided, the manager~~
9 ~~and those working under his supervision shall not divulge any information gained from any~~
10 ~~investigation conducted under this article or disclosed in any document, report or any~~
11 ~~return filed in connection with the tax levied under the provisions of this article.~~

12 ~~(b) The officials charged with the custody of such documents, reports or returns shall not be~~
13 ~~required to produce any of them or evidence of anything contained in them in any action~~
14 ~~or proceeding in any court, except on behalf of the manager in an action under the~~
15 ~~provisions of this article to which the manager is a party, or on behalf of any party to an~~
16 ~~action or proceeding under the provisions of this article or to punish a violator thereof~~
17 ~~when the report of facts shown by such report is directly involved in such action or~~
18 ~~proceeding, in any of which events the court may require the production of, and may~~
19 ~~admit in evidence so much of said documents, reports or returns, or of the facts shown~~
20 ~~thereby, as are pertinent to the action or proceeding and no more.~~

21 ~~(c) Nothing contained in this article shall be construed to prohibit the delivery to a person or~~
22 ~~his duly authorized representative of a copy of any return or report filed in connection with~~
23 ~~that person's tax, nor to prohibit the publication of statistics so classified as to prevent the~~
24 ~~identification of particular reports or returns and the items thereof, nor to prohibit the~~
25 ~~inspection by employees of the city under the control of the manager or by the city~~
26 ~~attorney of the city or any other legal representative of the city of the report or return of~~
27 ~~any person who shall bring action to set aside or review the tax based thereon, or against~~
28 ~~whom an action or proceeding is contemplated or has been instituted under this article;~~
29 ~~nor to prohibit the manager, in his discretion, from supplying and disclosing information~~
30 ~~gained from any investigation conducted under this article or reported, scheduled or~~
31 ~~disclosed in any document, report or return filed in connection with the tax levied under~~
32 ~~the provisions of this article, for inspection or copying to the executive director of the state~~
33 ~~department of revenue, to the commissioner of internal revenue of the United States~~

government, or to the official responsible for collecting sales or use taxes in any political subdivision of the state; provided, however, that such official of a political subdivision of the state similarly be permitted by law to disclose and supply information relating to the imposition and collection of sales or use taxes gained from persons within or doing business within such political subdivision.

(d) Reports and returns shall be preserved for three (3) years and thereafter until the manager orders them destroyed.

(e) Any city officer or employee who shall divulge any information classified herein as confidential, in any manner, except in accordance with proper judicial order or as otherwise provided by law, shall be guilty of a violation of this article.

Section 4. Section 53-182 of the Revised Municipal Code, which currently reads as follows, is repealed in its entirety:

~~Sec. 53-182. Lodger's tax information to be confidential.~~

(a) Except in accordance with judicial order or as otherwise provided in this article, the manager of finance, any agents, clerks and employees shall not divulge any information gained from any return filed under the provisions of this article.

(b) The officials charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the manager of finance in an action under the provisions of this article to which the manager is a party, or on behalf of any party to an action or proceeding under the provisions of this article or to punish a violator thereof when the report of facts shown by such report is directly involved in such action or proceeding, in either of which events the court may require the production of, and may admit in evidence, so much of such returns, or of the facts shown thereby, as are pertinent to the action or proceeding and no more.

(c) Nothing contained in this article shall be construed to prohibit the delivery to a person or a duly authorized representative of a copy of any return or report filed in connection with the tax, nor to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, nor to prohibit the inspection by the city attorney or any other legal representative of the city of the report or return of any person who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding is contemplated or has been instituted under this article.

(d) Reports and returns shall be preserved for three (3) years and thereafter until the

1 ~~manager of finance orders them destroyed.~~

2
3 ~~(e) Any city officer or employee, or any member of the office of, or officer or employee of the~~
4 ~~manager of revenue who shall divulge any information classified herein as confidential, in~~
5 ~~any manner, except in accordance with proper judicial order or as otherwise provided by~~
6 ~~law, shall be guilty of a violation hereof.~~

7 **Section 5.** Section 53-356 of the Revised Municipal Code, which currently reads as
8 follows, is repealed in its entirety:

9 ~~**Sec. 53-356. Tax information to be confidential.**~~

10 ~~(a) Except in accordance with judicial order or as otherwise provided in this article, the~~
11 ~~manager of finance, any agents, clerks and employees shall not divulge any information~~
12 ~~gained from any return filed under the provisions of this article.~~

13 ~~(b) The officials charged with the custody of such returns shall not be required to produce any~~
14 ~~of them or evidence of anything contained in them in any action or proceeding in any~~
15 ~~court, except on behalf of the manager of finance in an action under the provisions of this~~
16 ~~article to which the city is a party, or on behalf of any party to an action or proceeding~~
17 ~~under the provisions of this article or to punish a violator thereof when the report of facts~~
18 ~~shown by such report is directly involved in such action or proceeding, in either of which~~
19 ~~events the court may require the production of, and may admit in evidence, so much of~~
20 ~~such returns, or of the facts shown thereby, as are pertinent to the action or proceeding~~
21 ~~and no more.~~

22 ~~(c) Nothing contained in this article shall be construed to prohibit the delivery to a person or a~~
23 ~~duly authorized representative of a copy of any return or report filed in connection with the~~
24 ~~tax; nor to prohibit the publication of statistics so classified as to prevent the identification~~
25 ~~of particular reports or returns and the items thereof; nor to prohibit the inspection by the~~
26 ~~city attorney or any other legal representative of the city of the report or return of any~~
27 ~~person who shall bring action to set aside or review the tax based thereon, or against~~
28 ~~whom an action or proceeding is contemplated or has been instituted under this article;~~
29 ~~nor to prohibit the manager of finance, in the manager's discretion, from supplying~~
30 ~~information for inspection or copying to the executive director of the state department of~~
31 ~~revenue or the commissioner of internal revenue of the United States government.~~

32 ~~(d) Reports and returns shall be preserved for three (3) years and thereafter until the~~
33 ~~manager of finance orders them destroyed.~~

1 ~~(e) Any city officer or employee who shall divulge any information classified herein as~~
2 ~~confidential, in any manner, except in accordance with proper judicial order or as~~
3 ~~otherwise provided by law, shall be guilty of a violation hereof.~~

4 **Section 6.** Section 53-421 of the Revised Municipal Code, which currently reads as
5 follows, is repealed in its entirety:

6 **~~Sec. 53-421. Information to be confidential.~~**

7 ~~(a) Except in accordance with judicial order or as otherwise herein provided, the manager,~~
8 ~~and those working under his supervision, shall not divulge any information gained from~~
9 ~~any investigation conducted under this article or disclosed in any document, report or any~~
10 ~~return filed in connection with the tax levied under the provisions of this article.~~

11 ~~(b) The officials charged with the custody of such documents, reports or returns shall not be~~
12 ~~required to produce any of them or evidence of anything contained in them in any action~~
13 ~~or proceeding in any court, except on behalf of the manager in an action under the~~
14 ~~provisions of this article to which the manager is a party, or on behalf of any party to an~~
15 ~~action or proceeding under the provisions of this article or to punish a violator thereof~~
16 ~~when the report of facts shown by such report is directly involved in such action or~~
17 ~~proceeding, in any of which events the court may require the production of, and may~~
18 ~~admit in evidence, so much of said documents, reports or returns, or of the facts shown~~
19 ~~thereby, as are pertinent to the action or proceeding and no more.~~

20 ~~(c) Nothing contained in this article shall be construed to prohibit the delivery to a person or~~
21 ~~his duly authorized representative of a copy of any return or report filed in connection with~~
22 ~~that person's tax, nor to prohibit the publication of statistics so classified as to prevent the~~
23 ~~identification of particular reports or returns and the items thereof, nor to prohibit the~~
24 ~~inspection by employees of the city under the control of the manager or by the city~~
25 ~~attorney of the city or any other legal representative of the city of the report or return of~~
26 ~~any person who shall bring action to set aside or review the tax based thereon, or against~~
27 ~~whom an action or proceeding is contemplated or has been instituted under this article;~~
28 ~~nor to prohibit the manager, in his discretion, from supplying and disclosing information~~
29 ~~gained from any investigation conducted under this article or reported, scheduled or~~
30 ~~disclosed in any document, report or return filed in connection with the tax levied under~~
31 ~~the provisions of this article for inspection or copying to the executive director of the state~~
32 ~~department of revenue, to the commissioner of internal revenue of the United States~~
33 ~~government, or to the official responsible for collecting similar telecommunications~~

~~business taxes in any political subdivision of the state; provided, however, that such official of a political subdivision of the state similarly be permitted by law to disclose and supply information relating to the imposition and collection of similar telecommunications business taxes gained from persons within or doing business within such political subdivision.~~

~~(d) Reports and returns shall be preserved for three (3) years and thereafter until the manager orders them destroyed.~~

~~(e) Any city officer or employee who shall divulge any information classified herein as confidential in any manner, except in accordance with proper judicial order or as otherwise provided by law, shall be guilty of a violation of this article.~~

COMMITTEE APPROVAL DATE: December 11, 2013

MAYOR-COUNCIL DATE: December 17, 2013

PASSED BY THE COUNCIL: _____, 2013

_____ - PRESIDENT

APPROVED: _____ - MAYOR _____, 2013

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

NOTICE PUBLISHED IN THE DAILY JOURNAL: _____, 2013; _____, 2013

PREPARED BY: Charles T. Solomon, Assistant City Attorney Date: December 1, 2013

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

Douglas J. Friednash, City Attorney

BY: _____, Assistant City Attorney Date: _____, 2013