

1 BY AUTHORITY

2 ORDINANCE NO. _____
3 SERIES OF 2019

COUNCIL BILL NO. 19-0803
COMMITTEE OF REFERENCE:
Finance & Governance Committee

6 A BILL

8 For an ordinance establishing an excise tax on electricity and natural gas for commercial
9 and industrial customers to fund the office of climate action, sustainability, and
10 resiliency, subject to the approval of the voters at a special municipal election to be
11 conducted in coordination with the state coordinated election on November 5, 2019.
12

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

14 **Section 1.** Subject to voter approval as specified in Section 3 of this ordinance, Fund Number
15 **XXXXXX** of the Fund Plan, Section 20-18, D.R.M.C., is amended to add a new fund to read as follows:
16

17 **Sec. 20-18. Fund Plan.**

18
19 *Fund No.* **XXXXXX**

20
21 *Name of fund:* Climate action, sustainability, and resiliency fund.

22 *Source of funds:* Electricity and natural gas excise taxes collected and awaiting apportionment,
23 and earnings thereon.

24 *Disposition of funds:* As provided in chapter 11.5 of the Code.
25

26 **Section 2.** Subject to the approval of the voters as provided in Section 4 of this bill, chapter
27 53 of the D.R.M.C. is amended by the addition of a new article IX, to read as follows:

28 **ARTICLE IX. - CLIMATE ACTION, SUSTAINABILITY, AND RESILIENCY EXCISE TAX**

29 **Sec. 53-431. - Name of tax.**

30 This article shall be known and cited as the climate action, sustainability, and resiliency excise
31 tax article.

32 **Sec. 53-432. - Purpose of tax.**

33 The purpose of the levy of the tax imposed by this article is for the raising of funds for payment

1 of the expense of creating and operating the office of climate action, sustainability, and resiliency as
2 specified in chapter 11.5 of the Code; in accordance with this purpose, the proceeds of the tax shall
3 be placed in the climate action, sustainability, and resiliency fund plan, section 20-18 of the Code,
4 from which shall be allocated, apportioned, and transferred as therein provided such sums to the
5 respective funds and accounts as are indicated and for the purposes that may be therein stated.

6 **Sec. 53-433. - Imposition of the tax.**

7 (a) *Electricity Tax.* The tax shall be imposed upon the basis of each commercial and
8 industrial customer's consumption of electricity measured in kilowatt-hours (kWh), at a set rate of:

9 (1) \$0.0060 per kWh for all commercial customers receiving electricity from a public utility
10 for all electricity usage.

11 (2) \$0.0060 per kWh for all industrial customers receiving electricity from a public utility for
12 all electricity usage.

13 (b) *Natural Gas Tax.* The tax shall be imposed upon the basis of each commercial, and
14 industrial customer's consumption of natural gas measured in thermal units (therms), at a set rate of:

15 (1) \$0.030 per therm for all commercial customers receiving natural gas from a public utility
16 or natural gas transport provider for all natural gas usage until January 1, 2025, after which the tax will
17 increase ten percent annually.

18 (2) \$0.015 per therm for all industrial customers receiving natural gas from a public utility or
19 natural gas transport provider for all natural gas usage until January 1, 2025, after which the tax will
20 increase ten percent annually.

21 (c) *Billing.* The city shall coordinate billing directly with Xcel Energy and any other natural
22 gas transport providers that transport natural gas to customers in Denver.

23 (d) *Expiration.* The electricity portion of the tax expires when Xcel Energy's grid reaches
24 seventy percent renewable energy. The natural gas portion of the tax shall not expire.

25 (e) *Exemptions.* The following electricity or natural gas customers are not subject to the
26 taxes levied in accordance with article IX:

27 (1) The federal government, state government, municipal government, or kindergarten-
28 through-twelfth grade educational institutions; and

29 (2) A domestic customer whose meter serves a multi-family residential building or other
30 residential common area.

31 **Sec. 53-434. - Payment and reporting of tax.**

32 (a) An incumbent electricity or natural gas provider operating within the city pursuant to
33 franchise or otherwise shall bill and collect the climate action and resiliency tax and shall remit the tax
34 to the treasurer in accordance with the schedule in subsection (b) of this section. The tax must be

1 expressly identified on a consumer’s bill as the “Climate Action and Resiliency Excise Tax.”

2 (b) (1) For the climate action and resiliency tax amounts billed in accordance with this chapter,
3 the provider shall pay in monthly installments not more than thirty days following the close of the
4 month for which payment is to be made. Initial and final payments shall be prorated for the portions of
5 the months at the beginning and end of the term of the excise tax.

6 (2) The provider shall also submit electronically monthly reports to the city supporting the
7 amount of the climate action and resiliency tax remitted for that month including electricity and natural
8 gas use and amounts remitted by sector and wind source or other electricity purchases exempted by
9 sector.

10 (3) The provider shall keep and preserve, for a period of three years, suitable records and
11 other books or accounts, including, without limitation, original sales and purchase records, as may be
12 necessary to determine the amount of the climate action and resiliency tax for the collection of which
13 the provider is liable under this chapter. The treasurer is entitled at any reasonable time, upon
14 adequate notice, to examine the books and records of the provider and to make copies of the entries
15 or contents.

16 **Section 4.** In accordance with § 3.3.6 of the Charter and Article X, Section 20 of the Colorado
17 Constitution, this ordinance will be submitted to a vote of the registered electors of the City and County
18 of Denver at a special municipal election to be coordinated with the state general election occurring
19 November 5, 2019. Each elector desirous of voting for or against the ordinance must cast a vote as
20 provided by law either “Yes” or “No” on the proposition:

21
22 SHALL CITY AND COUNTY OF DENVER TAXES BE INCREASED BY \$30,391,224
23 ANNUALLY, COMMENCING JULY 1, 2020, AND BY WHATEVER ADDITIONAL
24 AMOUNTS ARE RAISED ANNUALLY THEREAFTER, BY AUTHORIZING THE CITY
25 AND COUNTY OF DENVER TO LEVY A CLIMATE ACTION, SUSTAINABILITY, AND
26 RESILIENCY EXCISE TAX UPON COMMERCIAL AND INDUSTRIAL CUSTOMERS
27 CONSUMING ELECTRICITY AND NATURAL GAS, WITH A FIRST YEAR
28 ELECTRICITY TAX RATE OF \$0.0060 PER KILOWATT HOUR FOR BOTH
29 COMMERCIAL AND INSUTRIAL CUSTOMERS, A FIRST YEAR NATURAL GAS TAX
30 RATE OF \$0.030 PER THERM FOR COMMERCIAL CUSTOMERS, AND A FIRST
31 YEAR RATE OF \$0.015 PER THERM FOR INDUSTRIAL CUSTOMERS. THE
32 ELECTRICITY PORTION OF THE TAX EXPIRES WHEN XCEL ENERGY’S GRID
33 REACHES 70% RENEWABLE ENERGY. THE NATURAL GAS PORTION OF THE
34 TAX DOES NOT EXPIRE, AND INCREASES 10% ANNUALLY AFTER JANUARY 1,

1 2025. THE EXCISE TAX IS FOR THE PURPOSE OF FUNDING THE OFFICE OF
2 CLIMATE ACTION, SUSTAINABILITY, AND RESILIENCY. SHALL THE FULL
3 PROCEEDS OF THE TAX AND ANY EARNINGS THEREFROM BE COLLECTED
4 AND SPENT WITHOUT ADDITIONAL LIMITATION OR CONDITION UNDER
5 ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER
6 LAW?

7
8 **Section 5.** The officials of the City and County of Denver charged with duties relating to the
9 election must, before the election, issue such calls, make such certifications and publications, give
10 such notices, make such appointments, and do all such other acts and things in connection with the
11 submission of this code amendment to the registered electors of the City and County of Denver at the
12 election required by the Constitution and laws of the State of Colorado and the Charter and
13 ordinances of the City and County of Denver.

14
15 **Section 6.** The ballots cast at the election must be canvassed and the results ascertained,
16 determined, and certified in accordance with the requirements of the Constitution and laws of the
17 State of Colorado and the Charter and ordinances of the City and County of Denver.

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19 **Section 7.** If any section, paragraph, clause, or other portion of this ordinance is held to be
20 invalid or unenforceable for any reason, the validity of the remaining portions of this ordinance shall
21 not be affected.

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COMMITTEE APPROVAL DATE: August 13, 2019

MAYOR-COUNCIL DATE: N/A

PASSED BY THE COUNCIL _____ 2019

_____ - PRESIDENT

APPROVED: _____ - MAYOR _____ 2019

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

NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2019; _____ 2019

PREPARED BY: Troy Bratton, Deputy Legislative Counsel DATE: August 14, 2019

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.

Kristin M. Bronson Denver City Attorney

BY: _____, Assistant City Attorney DATE: _____