

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2019

COUNCIL BILL NO. CB19-0803
COMMITTEE OF REFERENCE:
Finance & Governance Committee

A BILL

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

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

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

Sec. 20-18. Fund Plan.

Fund No. XXXXXX

Name of fund: Climate action, sustainability, and resiliency fund.

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

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

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

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

Sec. 53-431. - Name of tax.

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

Sec. 53-432. - Purpose of tax.

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) *Domestic consumer exempt.* Any meter serving a domestic consumer or a common area
26 used by domestic consumers, such as multi-family residential building meters, are not subject to the
27 taxes contained in this article.

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

29 (a) An incumbent electricity or natural gas provider operating within the city pursuant to
30 franchise or otherwise shall bill and collect the climate action and resiliency tax and shall remit the tax
31 to the treasurer in accordance with the schedule in subsection (b) of this section. The tax must be
32 expressly identified on a consumer's bill as the "Climate Action and Resiliency Excise Tax."

33 (b) (1) For the climate action and resiliency tax amounts billed in accordance with this chapter,
34 the provider shall pay in monthly installments not more than thirty days following the close of the

1 month for which payment is to be made. Initial and final payments shall be prorated for the portions of
2 the months at the beginning and end of the term of the excise tax.

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

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

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

18
19 SHALL CITY AND COUNTY OF DENVER TAXES BE INCREASED BY \$34,535,970
20 ANNUALLY, COMMENCING JULY 1, 2020, AND BY WHATEVER ADDITIONAL
21 AMOUNTS ARE RAISED ANNUALLY THEREAFTER, BY AUTHORIZING THE CITY
22 AND COUNTY OF DENVER TO LEVY AND COLLECT A CLIMATE ACTION,
23 SUSTAINABILITY, AND RESILIENCY TAX AS AN EXCISE TAX UPON PERSONS
24 CONSUMING ELECTRICITY AND NATURAL GAS AS COMMERCIAL OR
25 INDUSTRIAL CUSTOMERS? THE ELECTRICITY TAX WILL BE ESTABLISHED WITH
26 A FIRST YEAR RATE OF \$0.0060 PER KILOWATT HOUR (kWh) FOR COMMERCIAL
27 CUSTOMERS, AND \$0.0060 PER kWh FOR INDUSTRIAL CUSTOMERS. THE
28 NATURAL GAS TAX SHALL BE ESTABLISHED WITH A FIRST YEAR RATE OF
29 \$0.030 PER THERM FOR COMMERCIAL CUSTOMERS, AND \$0.015 PER THERM
30 FOR INDUSTRIAL CUSTOMERS, AND WILL INCREASE BY 10% ANNUALLY AFTER
31 JANUARY 1, 2025. THE TAX WILL TAKE EFFECT ON JULY 1, 2020; THE NATURAL
32 GAS PORTION OF THE TAX WILL NOT EXPIRE; AND THE ELECTRICITY PORTION
33 OF THE TAX EXPIRES WHEN XCEL ENERGY’S GRID REACHES 70%
34 RENEWABLE ENERGY; AND SHALL BE FOR THE PURPOSE OF FUNDING THE

1 OFFICE OF CLIMATE ACTION, SUSTAINABILITY, AND RESILIENCY. THE OFFICE
2 OF CLIMATE ACTION, SUSTAINABILITY, AND RESILIENCY MUST EXPEND THE
3 TAX SOLELY ON: WORKFORCE DEVELOPMENT; RESIDENTIAL CLIMATE ACTION
4 EFFORTS; COMMERCIAL AND INDUSTRIAL CLIMATE ACTION EFFORTS;
5 TRANSPORTATION CARBON POLLUTION REDUCTION EFFORTS; AND,
6 ADAPTATION EFFORTS TO HELP DENVER PREPARE FOR AND RESPOND TO
7 CLIMATE CHANGE. AND, IN CONNECTION THEREWITH, SHALL THE REVENUES
8 FROM THE EXCISE TAX BE COLLECTED AND SPENT IN EACH FISCAL YEAR BY
9 DENVER WITHOUT REGARD TO ANY EXPENDITURE, REVENUE-RAISING, OR
10 OTHER LIMITATION CONTAINED WITHIN ARTICLE X, SECTION 20 OF THE
11 COLORADO CONSTITUTION OR ANY OTHER LAW?
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13 **Section 5.** The officials of the City and County of Denver charged with duties relating to the
14 election must, before the election, issue such calls, make such certifications and publications, give
15 such notices, make such appointments, and do all such other acts and things in connection with the
16 submission of this code amendment to the registered electors of the City and County of Denver at the
17 election required by the Constitution and laws of the State of Colorado and the Charter and
18 ordinances of the City and County of Denver.
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20 **Section 6.** The ballots cast at the election must be canvassed and the results ascertained,
21 determined, and certified in accordance with the requirements of the Constitution and laws of the
22 State of Colorado and the Charter and ordinances of the City and County of Denver.
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24 **Section 7.** If any section, paragraph, clause, or other portion of this ordinance is held to be
25 invalid or unenforceable for any reason, the validity of the remaining portions of this ordinance shall
26 not be affected.
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1 COMMITTEE APPROVAL DATE: August 13, 2019

2 MAYOR-COUNCIL DATE: N/A

3 PASSED BY THE COUNCIL _____

4 _____ - PRESIDENT

5 APPROVED: _____ - MAYOR _____

6 ATTEST: _____ - CLERK AND RECORDER,
7 EX-OFFICIO CLERK OF THE
8 CITY AND COUNTY OF DENVER
9

10 NOTICE PUBLISHED IN THE DAILY JOURNAL _____ ; _____

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

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14 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the
15 City Attorney. We find no irregularity as to form and have no legal objection to the proposed
16 ordinance. The proposed ordinance **is not** submitted to the City Council for approval pursuant to §
17 3.2.6 of the Charter.
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19 Kristin M. Bronson, Denver City Attorney

20 BY: , Assistant City Attorney DATE: Aug 14, 2019