

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2020

COUNCIL BILL NO. 20-0782
COMMITTEE OF REFERENCE:
Finance & Governance

A BILL

For an ordinance increasing the sales and use tax by a rate of 0.25 percent and dedicating the revenue derived from the tax rate increase to fund housing, shelter, and services for persons experiencing or having exited homelessness, subject to the approval of the voters at a special municipal election to be conducted in coordination with the state general election on November 3, 2020.

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

Section 1. Subject to voter approval as specified in Section 7 of this ordinance, Account Number 97000-282110 of the Fund Plan, Section 20-18, D.R.M.C., concerning apportionment of the sales, use and lodger’s tax, is amended by the addition of a new subsection (m), to read as follows (with existing subsections (m) and (n) being re-designated as subsections (n) and (o)):

Sec. 20-18. - Fund Plan.

Account No. 97000-282110

Name of account: Unapportioned sales, use and lodger’s tax

Source of funds: City retail sales taxes, city use taxes and city lodger’s taxes that have been collected, returned, and await apportionment.

Disposition of funds:

m. Monthly, (1) allocation apportionment and transfer of only those revenues raised at the rate of 0.25 percent of gross taxable sales from sales and use taxes levied to the Homelessness Resolution Fund.

Section 2. Subject to the approval of the voters as specified in Section 7 of this ordinance, Section 53-27, D.R.M.C., concerning sales taxes is amended by the addition of a new subsection (l) to read as follows:

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(l) *Sales tax increment to fund the Homelessness Resolution Program.* In addition to the sales tax otherwise imposed by this section, a tax of twenty-five one-hundredths of one percent (.25%) must be paid on all taxable sales of commodities or services, except on commodities or services specified in subsection (b) of this section, beginning January 1, 2021. The revenue from such additional tax must be used for the sole purpose of funding the Homelessness Resolution Program created in article VII of chapter 27.

Section 3. Subject to the approval of the voters as provided in Section 7 of this Ordinance, subsection (a) of section 53-28, D.R.M.C., concerning collection of sales is amended by adding the language underlined and deleting the language stricken, to read as follows:

Sec. 53-28. Retailer responsible for payment of tax.

(a) *Amount.* Every retailer shall, irrespective of other provisions of this article, be liable and responsible for the payment of an amount equivalent to ~~four and thirty-one one-hundredths (4.31) percent~~ four and fifty-six one hundredths (4.56) percent of the retailer's taxable sales of tangible personal property, products, or services specified in this article, except:

- (1) Aviation and railway fuel, as to which the rate of four cents (\$0.04) for each gallon purchased shall apply;
- (2) Automotive vehicles when they are for any term of thirty (30) days or less hired for use, rented, leased or transferred under a grant of a license to use, as to which a rate of taxation as set forth in subsection 53-27(b)(2) shall apply;
- (3) Food and beverages not exempted from taxation under subsection 53-26(8) of this article, as to which the rate of four (4) percent shall apply;
- (4) For each of which respective rates aforesaid the retailer shall be liable for an equivalent amount;
- (5) Every retailer shall, on its return, round each calculation, as directed on such form as the manager may require, to the nearest whole dollar and remit the rounded amount. In rounding under this section, any amount of forty-nine cents (\$0.49) or less shall be rounded down, and any amount of fifty cents (\$0.50) or higher shall be rounded up.

Section 4. Subject to the approval of the voters as provided in Section 7 of this

1 ordinance, Section 53-98, D.R.M.C., concerning use taxes is amended by the addition of a
2 new subsection (p) to read as follows:

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4 (p) *Use tax increment to fund the Homelessness Resolution Program.* In addition to
5 the use tax otherwise imposed by this section, a tax of twenty-five one-hundredths of one
6 percent (.25%) must be paid on all taxable uses, consumptions, distributions, and storages of
7 commodities and services, except on commodities and services specified in subsection (b) of
8 this section, beginning January 1, 2021. The Homelessness Resolution Fund created in article
9 VII of chapter 27.

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11 **Section 5.** Subject to the approval of the voters as provided in Section 8 of this
12 ordinance, subsection (a) of section 53-99, D.R.M.C., concerning collection of use taxes, is
13 amended by the addition of the language underlined and the deletion of the language stricken,
14 to read as follows:

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16 **Sec.53-99. Retailer responsible for payment of tax.**

17 (a) *Amount.* Every retailer shall, irrespective of other provisions of this article, be liable
18 and responsible for the payment of an amount equivalent to ~~four and thirty one one-~~
19 ~~hundredths (4.31) percent~~ four and fifty-six one hundredths (4.56) percent of taxable sales
20 made by him of tangible personal property, products, and services, except:

21 (1) Aviation and railway fuel, as to which the rate of four cents (\$0.04) for each gallon
22 purchased shall apply;

23 (2) Automotive vehicles when they are for any term of thirty (30) days or less hired for
24 use, rented, leased or transferred under a grant of a license to use, as to which a rate of
25 taxation as set forth in subsection 53-98(b)(2) shall apply;

26 (3) Food and beverages not exempted from taxation under subsection 53-26(8) of the
27 city retail sales tax article, as to which the rate of four (4) percent shall apply;

28 (4) For each of which respective rates aforesaid the retailer shall be liable for an
29 equivalent amount; and

30 (5) Every retailer shall, on its return, round each calculation, as directed on such form
31 as the manager may require, to the nearest whole dollar and remit the rounded amount. In
32 rounding under this section, any amount of forty-nine cents (\$0.49) or less shall be rounded
33 down, and any amount of fifty cents (\$0.50) or higher shall be rounded up.

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1 **Section 6.** Subject to the approval of the voters as provided in Section 7 of this
2 ordinance, Chapter 27, D.R.M.C., concerning Housing, is amended by the addition of a new
3 Article VII, to read as follows:

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6 **ARTICLE VII. HOMELESSNESS RESOLUTION PROGRAM**

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9 **Sec. 27-189. Legislative Declaration.** (a) The City Council finds, determines, and
10 declares:

11 (1) According to the 2020 Point in Time (“PIT”) study by the Metro Denver Homeless
12 Initiative, there are more than 4000 people experiencing homelessness in the City – up 6
13 percent from 2019 – including 1,200 people experiencing chronic homelessness;

14 (2) According to the Colorado Department of Education, there were 1,762 children
15 experiencing homelessness in the City’s K-12 schools during the 2018-2019 school year;

16 (3) The 2020 PIT survey counted 996 unsheltered people in Denver on one night in
17 January, a growth over previous years averaging around 530 unsheltered people on one night
18 in January between 2014 and 2019. According to findings from the PIT survey, challenges
19 also exist regarding shelter access for certain populations.

20 (4) According to the National Low Income Housing Coalition, there is a deficit of homes
21 for the lowest-income families in the Denver metro area, with only 30 affordable homes
22 available for every 100 households in need, and among the lowest-income families who are
23 housed, 74% are cost burdened;

24 (5) Denver City Council approved an affordable housing fund in 2016 that was doubled
25 in 2018 and is estimated to create or preserve 6,000 affordable homes for low- to moderate-
26 income families in approximately five years, but the affordable housing fund is charged with
27 expanding affordable housing across the full income spectrum and the need for housing
28 among those experiencing homelessness far exceeds the portion of the fund that is available
29 for this population, and there is currently no dedicated source of local funding that can be
30 used to fund shelter or services unconnected to housing;

31 (6) An increase in housing, shelter, and service options for Denver’s most vulnerable
32 populations are priorities identified in Denver’s Comprehensive Plan 2040, adopted by Denver
33 City Council in May of 2019, and investments in these areas will advance the plan’s goals for
34 a healthy, safe, and equitable, affordable and inclusive city;

 (7) Denver’s Three-Year Shelter Expansion Plan identifies five areas of needed

1 investment – permanent housing expansion, coordinated entry, shelter and services funding,
2 crisis service operations, and real estate and capital expenditures – and new funding is
3 needed to enable implementation of the plan;

4 (8) Denver’s Social Impact Bond program has demonstrated that supportive services
5 can be provided in a housing setting for approximately \$13,400 per person annually,
6 compared to an average yearly cost to taxpayers of \$29,000 per individual experiencing
7 homelessness for medical care, incarceration, detox services, and shelter services, with a
8 typical retention rate around 80%, and more investment into this form of cost-effective and
9 successful housing is needed in Denver;

10 (9) The need for dedicated, additional funding to address homelessness has become
11 more acute due to the COVID-19 pandemic, with tens of thousands of Denver residents
12 vulnerable to eviction due to rent burden and risk of unemployment, and modeling based on
13 correlations between unemployment and homelessness in the past by economists with
14 Columbia University predicts a steep rise in homelessness nationwide as a result of the
15 economic fallout from the virus;

16 (10) Denver’s response to the pandemic required establishment of auxiliary shelter for
17 up to 765 men and 300 women and more than 800 motel/hotel rooms, along with reduced
18 capacity and conversion of existing shelters to 24-hour, seven-days-a-week operations, to
19 provide for social distancing and/or isolation of people with symptoms who were experiencing
20 homelessness, all of which have been heavily-utilized and funded through time-limited, one-
21 time emergency funding sources, which risks leaving hundreds of people without shelter or
22 housing options when emergency funds are no longer available;

23 (11) A dedicated, additional funding source to address housing, shelter, and services
24 for those experiencing homelessness is necessary to protect the health and safety of the City
25 and County of Denver.

26 (b) Therefore, the City Council has determined that the question of whether the City
27 shall be authorized to impose a 0.25 percent sales tax for the purposes and in the manner set
28 forth in this ordinance should be submitted to the registered electors of the City at the special
29 municipal election to be conducted in coordination with the state general election on
30 November 3, 2020.

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32 **Sec. 27-190. Permitted Uses of Revenue in the Homelessness Resolution Fund.**

33 (a) All monies derived from the sales and use taxes in the Homelessness Resolution
34 Fund must be expended on housing, shelter, and services for those experiencing or having

1 exited from homelessness, including, but not limited to:

2 (1) capital improvements, operations and maintenance, and services;

3 (2) new or renovated housing, rental assistance, or supportive services;

4 (3) new or existing shelter capacity, improvement, operations, services and
5 accessibility for those experiencing homelessness including underserved populations; and

6 (4) other services or supports for those experiencing homelessness, including for those
7 who are unsheltered.

8 (b) *Cap on administrative costs.* Monies in the Homelessness Resolution Fund may be
9 expended to pay the costs incurred by the city associated directly with the administration of
10 the funds; except that, in no event may the amount expended from the funds for city
11 administrative expenses in any year exceed eight percent of the amount of revenue received
12 in the fund in that year.

13 (c) *Fund earnings.* Any interest earned on the balance of the Fund accrues to the Fund.

14 (d) *Administration of funds.* The executive director of the Department of Housing
15 Stability will manage the Homelessness Resolution Fund.

16 (e) *Permanency.* If the monies in the Fund are not expended at the end of the fiscal
17 year, such monies must remain in the fund to be expended in subsequent fiscal years.

18 (f) *Maintenance of Effort.* All monies in the Fund must be used in accordance with this
19 section and may not replace nor supplant any general fund appropriations allocated each year
20 to the Department of Housing Stability.

21 (g) *Rulemaking.* The executive director of the Department of Housing Stability may
22 promulgate any rules necessary for the proper administration of this section.

23 (h) *Planning.* No later than January 31, 2021, the Department of Housing Stability shall
24 prepare, and the housing stability strategic advisors shall take public input on, review, and
25 recommend, a first year-plan for use of the funds in 2021. Subsequently, intended uses of the
26 fund shall be included in annual action plans and three- to five-year strategic plans for city
27 housing and homeless expenditures which include requirements for public input and
28 consideration of equity as outlined in Sec. 27-164 of the D.R.M.C.

29 (i) *Reporting.* Providing publicly accessible reports on actual uses of the Homelessness
30 Resolution Fund, outcomes, and evaluation compared to the relevant goals outlined in annual
31 or strategic plans shall be incorporated into annual progress reports and intermittent reports
32 on housing and homelessness provided by the executive director of the Department of
33 Housing Stability to the housing stability strategic advisors and the City Council pursuant to
34 Sec. 27-164(c) of the D.R.M.C.

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2 **Section 7.** The ballot shall contain the following title and submission clause:
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4 SHALL CITY AND COUNTY OF DENVER SALES AND USE TAXES BE INCREASED
5 BY \$40 MILLION ANNUALLY, COMMENCING JANUARY 1, 2021, AND BY
6 WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER,
7 FROM A TWENTY-FIVE ONE-HUNDREDTHS OF ONE PERCENT (0.25%) SALES
8 AND USE TAX RATE (2.5 CENTS ON A TEN-DOLLAR PURCHASE), THAT WILL
9 NOT BE COLLECTED ON FOOD FOR HOME CONSUMPTION, WATER, FUEL,
10 MEDICAL SUPPLIES OR FEMININE HYGIENE PRODUCTS, TO BE USED TO FUND
11 HOUSING, SHELTER OR SERVICES FOR PEOPLE EXPERIENCING
12 HOMELESSNESS, INCLUDING, BUT NOT LIMITED TO:

- 13 • BUILDING HOUSING, EXPANDING RENTAL ASSISTANCE OR PROVIDING
14 SUPPORTIVE SERVICES OR OTHER SUPPORTS TO HOUSE PEOPLE
15 EXPERIENCING HOMELESSNESS;
- 16 • EXPANDING THE NUMBER OF SHELTER BEDS, IMPROVING ACCESS FOR
17 UNDERSERVED POPULATIONS, AND PROVIDING BETTER HEALTH AND
18 HOUSING OUTCOMES THROUGH 24-HOUR SHELTER AND DROP-IN DAY
19 SERVICES SUCH AS CORONAVIRUS PREVENTION, MENTAL HEALTH
20 CARE, SUBSTANCE TREATMENT, HOUSING AND EMPLOYMENT
21 COUNSELING, AND OTHER SERVICES; AND
- 22 • PROVIDING MORE HOUSING REFERRALS AND OTHER SERVICES TO
23 PEOPLE LIVING ON THE STREETS OR IN CARS TO HELP THEM EXIT
24 HOMELESSNESS;

25 AND, IN CONNECTION THEREWITH, SHALL NO MORE THAN EIGHT PERCENT
26 (8%) OF THE TOTAL ANNUAL REVENUES DERIVED FROM THE INCREASE IN
27 SALES AND USE TAX BE SPENT ON CITY ADMINISTRATIVE COSTS RELATED
28 TO THE ABOVE PURPOSES; AND SHALL THE MONIES DERIVED FROM THE
29 INCREASE IN SALES AND USE TAX NOT BE USED TO OFFSET ANY CURRENT
30 REVENUE EXPENDITURES FROM THE GENERAL FUND; AND SHALL THE
31 REVENUES FROM THESE INCREASED TAXES BE COLLECTED AND SPENT IN
32 EACH FISCAL YEAR BY DENVER WITHOUT REGARD TO ANY EXPENDITURE,
33 REVENUE-RAISING, OR OTHER LIMITATION CONTAINED WITHIN ARTICLE X,
34 SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

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Section 8. The proper officials of the City and County of Denver as are charged with duties relating to the election shall, before the election, issue such calls, make such certifications and publications, give such notices, make such appointments, and do all such other acts and things in connection with the submission of this code amendment to the registered electors of the City and County of Denver at the election as are required by the Constitution and laws of the State of Colorado and the Charter and ordinances of the City and County of Denver.

Section 9. The ballots cast at such election shall be canvassed and the results ascertained, determined, and certified in accordance with the requirements of the Constitution and laws of the State of Colorado and the Charter and ordinances of the City and County of Denver.

Section 10. If any section, paragraph, clause, or other portion of this ordinance is held to be invalid or unenforceable for any reason, the validity of the remaining portions of this ordinance shall not be affected.

COMMITTEE APPROVAL DATE: August 4, 2020

MAYOR-COUNCIL DATE: August 11, 2020

PASSED BY THE COUNCIL _____

_____ - PRESIDENT

APPROVED: _____ - MAYOR _____


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

NOTICE PUBLISHED IN THE DAILY JOURNAL _____; _____

PREPARED BY: Jonathan Griffin, Assistant City Attorney; DATE: July 27, 2020

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: Aug 12, 2020