

1 BY AUTHORITY

2 ORDINANCE NO. _____
3 SERIES OF 2019

COUNCIL BILL NO. _____
COMMITTEE OF REFERENCE:

4
5 A BILL

6
7 For an ordinance establishing an excise tax on electricity and natural gas for commercial
8 and industrial customers to fund the office of climate action, sustainability, and
9 resiliency, subject to the approval of the voters at a special municipal election to be
10 conducted in coordination with the state coordinated election on November 5, 2019.

11
12 **BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

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

15
16 **Sec. 20-18. Fund Plan.**

17
18 *Fund No.* XXXXXX

19
20 *Name of fund:* Climate action, sustainability, and resiliency fund.

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

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

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

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

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

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

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

32 The purpose of the levy of the tax imposed by this article is for the raising of funds for payment
33 of the expense of creating and operating the office of climate action, sustainability, and resiliency as

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

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

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

8 (1) \$0.0060 per kWh for all commercial customers receiving electricity from a public utility
9 for all electricity usage.

10 (2) \$0.0060 per kWh for all industrial customers receiving electricity from a public utility for
11 all electricity usage.

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

14 (1) \$0.030 per therm for all commercial customers receiving natural gas from a public utility
15 or natural gas transport provider for all natural gas usage until January 1, 2025, after which the tax will
16 increase ten percent annually.

17 (2) \$0.015 per therm for all industrial customers receiving natural gas from a public utility or
18 natural gas transport provider for all natural gas usage until January 1, 2025, after which the tax will
19 increase ten percent annually.

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

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

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

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

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

32 (b) (1) For the climate action and resiliency tax amounts billed in accordance with this chapter,
33 the provider shall pay in monthly installments not more than thirty days following the close of the
34 month for which payment is to be made. Initial and final payments shall be prorated for the portions of

1 the months at the beginning and end of the term of the excise tax.

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

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

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

17

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

1 OF CLIMATE ACTION, SUSTAINABILITY, AND RESILIENCY MUST EXPEND THE
2 TAX SOLELY ON: WORKFORCE DEVELOPMENT; RESIDENTIAL CLIMATE ACTION
3 EFFORTS; COMMERCIAL AND INDUSTRIAL CLIMATE ACTION EFFORTS;
4 TRANSPORTATION CARBON POLLUTION REDUCTION EFFORTS; AND,
5 ADAPTATION EFFORTS TO HELP DENVER PREPARE FOR AND RESPOND TO
6 CLIMATE CHANGE. AND, IN CONNECTION THEREWITH, SHALL THE REVENUES
7 FROM THE EXCISE TAX BE COLLECTED AND SPENT IN EACH FISCAL YEAR BY
8 DENVER WITHOUT REGARD TO ANY EXPENDITURE, REVENUE-RAISING, OR
9 OTHER LIMITATION CONTAINED WITHIN ARTICLE X, SECTION 20 OF THE
10 COLORADO CONSTITUTION OR ANY OTHER LAW?
11

12 **Section 5.** The officials of the City and County of Denver charged with duties relating to the
13 election must, before the election, issue such calls, make such certifications and publications, give
14 such notices, make such appointments, and do all such other acts and things in connection with the
15 submission of this code amendment to the registered electors of the City and County of Denver at the
16 election required by the Constitution and laws of the State of Colorado and the Charter and
17 ordinances of the City and County of Denver.
18

19 **Section 6.** The ballots cast at the election must be canvassed and the results ascertained,
20 determined, and certified in accordance with the requirements of the Constitution and laws of the
21 State of Colorado and the Charter and ordinances of the City and County of Denver.
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23 **Section 7.** If any section, paragraph, clause, or other portion of this ordinance is held to be
24 invalid or unenforceable for any reason, the validity of the remaining portions of this ordinance shall
25 not be affected.
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28 COMMITTEE APPROVAL DATE: _____, 2019.

29 MAYOR-COUNCIL DATE: _____, 2019.

30 PASSED BY THE COUNCIL _____ 2019

31 _____ - PRESIDENT

32 APPROVED: _____ - MAYOR _____ 2019

33 ATTEST: _____ - CLERK AND RECORDER,
34 EX-OFFICIO CLERK OF THE

CITY AND COUNTY OF DENVER

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NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2019; _____ 2019

PREPARED BY: _____; DATE: _____

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
City Attorney

BY: _____, _____ City Attorney
DATE: _____