

1 **BY AUTHORITY**

2 ORDINANCE NO. _____

COUNCIL BILL NO. CB13-0541

3 SERIES OF _____

COMMITTEE OF REFERENCE:

4 Special Issues, Amendment 64

5 **A BILL**

6 **For an ordinance establishing a special retail marijuana sales tax, subject to the**
7 **approval of the voters at a special municipal election to be held in conjunction**
8 **with the state odd-year election on November 5, 2013.**
9

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

11 **Section 1.** Subject to approval of the voters of the referred ballot question set forth in Section
12 2 of this ordinance, Article II of Chapter 53 of the Denver Revised Municipal Code shall be amended
13 by the addition of a new Division 4, to read as follows:
14

15 DIVISION 4. SPECIAL RETAIL MARIJUANA SALES TAX

16 **Sec. 53-83. Administration and enforcement.**

17 The special retail marijuana sales tax imposed pursuant to this Division 4 shall
18 be administered and enforced in accordance with the provisions of Divisions I and II
19 of this Article II, and in a manner consistent with the administration and enforcement
20 of other city sales taxes, including, without limitation, any penalties for failure to make
21 any return or to collect or pay any tax.
22

23 **Sec. 53-84. Definitions.**

24 The following words and phrases when used in this Division 4, unless the
25 context otherwise requires, shall have the meanings given to them in this section.
26

27
28 (1) "*Consumer*" means a person twenty-one years of age or older who purchases
29 retail marijuana or retail marijuana products for personal use by person
30 twenty-one years of age or older but not for resale to others.
31

32 (2) "*Retail Marijuana*" means all or parts of the plant of the genus cannabis
33 whether growing or not, the seeds thereof, the resin extracted from any part of
34 the plant, and every compound, manufacture, salt, derivative, mixture, or

1 preparation of the plant, its seeds, or its resin, including marijuana
2 concentrate. "Retail marijuana" does not include industrial hemp, nor does it
3 include fiber produced from the stalks, oil, cake made from the seeds of the
4 plant, sterilized seed of the plant that is incapable of germination, or the
5 weight of any other ingredient combined with marijuana to prepare topical or
6 oral administrations, food, drink, or other product.

7
8 (3) "*Retail marijuana products*" means concentrated retail marijuana products and
9 retail marijuana products that are comprised of retail marijuana and other
10 ingredients and are intended for use or consumption, such as but not limited
11 to, edible products, ointments, and tinctures.

12
13 (4) "*Retail marijuana sales tax*" means the tax imposed on the sale of retail
14 marijuana and retail marijuana products pursuant to this Division 4.

15
16 (5) "*Retail marijuana store*" means an entity licensed by the Colorado Department
17 of Revenue to sell retail marijuana and retail marijuana products to consumers
18 pursuant to section 16 of article XVIII of the Colorado Constitution and the
19 "Colorado Retail Marijuana Code," Article 43.4 of Title 12, C.R.S., and license
20 by the Department of Excise and License pursuant to article V of Chapter 6,
21 D.R.M.C.

22
23 **53-85. Imposition of tax.**

24
25 (a) In addition to the sale tax imposed by Division 1 of this Article II, beginning January
26 1, 2014 there is imposed upon all sales of retail marijuana and retail marijuana
27 products to a consumer by a retail marijuana store a tax at the rate of five (5) percent
28 of the amount of the sale.

29
30 (b) The maximum tax rate that may be imposed pursuant to this section is fifteen (15)
31 percent and the minimum tax rate that may be imposed pursuant to this section is
32 three and one-half (3.5) percent. At any time on or after January 1, 2014, the city
33 may, by ordinance:

1 (1) Establish another tax rate to be imposed pursuant to this Division 4 that is
2 equal to or greater than three and one-half (3.5) percent and equal to or less
3 than the maximum fifteen (15) percent tax rate provided in this subsection; or
4

5 (2) After establishing a tax rate that is lower than fifteen (15) percent, increase the
6 tax rate to be imposed pursuant to this section; except that, in no event shall
7 the city increase the tax rate above fifteen (15) percent of the sale of retail
8 marijuana or retail marijuana products.
9

10 (c) Nothing in this section shall be construed to impose a tax on the sale of marijuana or
11 marijuana products to any person by a medical marijuana center licensed by the
12 Colorado Department of Revenue to sell medical marijuana and medical marijuana-
13 infused products pursuant to the Colorado Medical Marijuana Code, article 43.3 of
14 Title 12, C.R.S. and licensed by the city pursuant to article XII of chapter 24,
15 D.R.M.C. To the extent any retail marijuana store exists at the same location and
16 under common ownership with a licensed medical marijuana center, the retailer shall
17 strictly segregate and account for sales of retail marijuana distinct from medical
18 marijuana in accordance with all applicable state and city laws and regulations
19 governing collocation of retail marijuana stores and medical marijuana centers.
20

21 **53-86. Purpose of tax.**

22 The council declares that the purpose of the levy of the tax imposed by this
23 Division 4 is for raising funds for the payment of direct and indirect expenses related
24 to the licensing and regulation of the retail marijuana industry, enforcement of
25 marijuana laws in general, educational and public health programs to mitigate any
26 negative consequences associated with the consumption of marijuana and marijuana
27 products, programs to prevent the illegal diversion of retail marijuana and retail
28 marijuana products to persons under the age of twenty-one; and to otherwise pay the
29 expenses of operating and improving the city and its facilities. In accordance with
30 these purposes, the proceeds of the tax shall be placed in the unapportioned sales,
31 use and lodger's tax account of the fund plan, section 20-18 of the Code, from which
32 shall be allocated, apportioned and transferred as therein provided such sums to the
33 respective funds and accounts of said fund plan as are therein indicated and for the

1 purposes therein stated.

2
3 **53-87. Revenue and spending limitations.**

4 Notwithstanding any limitations on revenue, spending, or appropriations
5 contained in section 20 of article X of the Colorado Constitution or any other
6 provision of law, any revenues generated by the retail marijuana sales tax imposed
7 pursuant to this Division 4, as approved by the voters at the special municipal
8 election on November 5, 2013, may be collected and spent as a voter-approved
9 revenue change and shall not require further voter approval to modify the tax rate as
10 provided in section 53-85 or to collect and spend any revenue derived from a
11 modified tax rate.
12

13 **Section 2.** Pursuant to § 8.2.3 of the Charter, the City Council hereby calls a special
14 municipal election to be conducted on November 5, 2013 and coordinated with the regular
15 biennial school district election occurring on said date. In accordance with § 3.3.6 of the
16 Charter and Article X, Section 20 of the Colorado Constitution, the tax increase set forth in
17 Section 1 of this ordinance shall be submitted to a vote of the registered electors of the City
18 and County of Denver at said election. Each elector voting at said election and desirous of
19 voting for or against the tax increase shall cast a vote as provided by law either “Yes” or
20 “No” on the proposition:

21 **Referred Question _____**

22 “SHALL CITY TAXES BE INCREASED BY \$6.4 MILLION ANNUALLY IN THE
23 FIRST FULL FISCAL YEAR AND BY SUCH AMOUNTS AS ARE RAISED
24 ANNUALLY THEREAFTER BY IMPOSING AN ADDITIONAL SALES TAX OF 5%
25 ON THE SALE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS,
26 WITH THE TAX REVENUES BEING USED TO FUND THE ENFORCEMENT OF
27 REGULATIONS ON THE RETAIL MARIJUANA INDUSTRY, OTHER COSTS
28 RELATED TO ENFORCEMENT OF MARIJUANA LAWS, EDUCATION AND
29 PUBLIC HEALTH PROGRAMS ASSOCIATED WITH MARIJUANA CONSUMPTION
30 INCLUDING PREVENTION OF UNDERAGE CONSUMPTION, AND OTHER CITY
31 EXPENSES, WITH THE RATE OF THE TAX BEING ALLOWED TO BE
32 INCREASED OR DECREASED WITHOUT FURTHER VOTER APPROVAL SO
33 LONG AS THE RATE OF TAXATION DOES NOT EXCEED 15%, AND WITH THE
34 RESULTING TAX REVENUE BEING ALLOWED TO BE COLLECTED AND SPENT
35 NOTWITHSTANDING ANY LIMITATIONS PROVIDED BY LAW?”
36

37 The proper officials of the City and County of Denver as are charged with duties relating to the election

1 shall, before the election, issue such calls, make such certifications, and publications, give such
2 notices (including, without limitation, the notice required by Art. X, §20(3)(b) of the Colorado
3 Constitution), make such appointments, and do all such other acts and things in connection with the
4 submission of this question to the registered electors of the City and County of Denver at the election
5 as are required by the constitution and laws of the state of Colorado and the Charter and ordinances
6 of the City and County of Denver. The ballots cast at such election shall be canvassed and the results
7 ascertained, determined, and certified in accordance with the requirements of the Constitution and
8 laws of the State of Colorado and the Charter and ordinances of the City and County of Denver.

9
10 **Section3.** Subject to the approval of the voters as provided in Section 7 of this Ordinance, this
11 ordinance shall be effective January 1, 2014.

12 COMMITTEE APPROVAL DATE: July 29, 2013

13 MAYOR-COUNCIL DATE: August 6, 2013.

14 PASSED BY THE COUNCIL _____ 2013

15 _____ - PRESIDENT

16 APPROVED: _____ - MAYOR _____ 2013

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

20 NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2013; _____ 2013

21 PREPARED BY: David W. Broadwell, Assistant City Attorney; DATE: August 15, 2013

22 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the
23 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
24 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §
25 3.2.6 of the Charter.

26
27 Douglas J. Friednash, Denver City Attorney

28 BY: _____, _____ City Attorney DATE: _____, 2013

29