

BY AUTHORITY

ORDINANCE NO.
SERIES OF 2019

COUNCIL BILL NO. 19-0529
COMMITTEE OF REFERENCE:
Land Use, Transportation & Infrastructure

A BILL

For an ordinance submitting to a vote of the qualified and registered electors of the City and County of Denver at a special municipal election to be held in conjunction with the coordinated election of November 5, 2019, a proposed amendment to the Charter of the City and County of Denver creating the Department of Transportation and Infrastructure.

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

Section 1. There is hereby submitted to the properly qualified and registered electors of the City and County of Denver for their approval or rejection at a special municipal election to be conducted at the same time and in conjunction with the coordinated election to be held in the City and County of Denver on November 5, 2019, a proposed amendment to the Charter of the City and County of Denver, as follows:

Effective January 1, 2020 and after publication and filing with the Secretary of State pursuant to the Constitution and laws of the State of Colorado, the following sections of Article IV of the 2002 Charter of the City and County of Denver shall be and are hereby amended to read as follows:

Part 3 of Article II shall be repealed and reenacted to read as follows:

PART 3. – TRANSPORTATION AND INFRASTRUCTURE

§ 2.3.1 - Department of Transportation and Infrastructure created.

There shall be and hereby is created a Department of Transportation and Infrastructure.

§ 2.3.2 – Manager of Transportation and Infrastructure.

The Manager of Transportation and Infrastructure (hereinafter called the "Manager") shall be the officer in full charge and control of the Department and shall devote full time to the duties of the office. The Manager shall be appointed by the Mayor and hold office at the pleasure of the Mayor. The Manager shall be a member of the Mayor's cabinet and shall be a member of the Board of Equalization.

1 **§ 2.3.3 - Powers and duties of Department of Transportation and Infrastructure.**

2 The following duties and powers are hereby vested in the Department of
3 Transportation and Infrastructure.

4 (A) *General public improvements.* Management and control of the designing,
5 planning, construction, and reconstruction of all general public improvements,
6 including such remodeling thereof as requires designing or structural changes,
7 for the City and County and for all departments, agencies, boards,
8 commissions, and authorities thereof except the Board of Water
9 Commissioners and the Department of Aviation. Such designing, planning,
10 construction, reconstruction, and remodeling may be performed either by the
11 Department, under contracts let by the Department, or with the permission of
12 the Manager and to the extent and in the manner provided by ordinance or
13 resolution of the Council, by any person, firm, or corporation entirely at the
14 expense of the person, firm, or corporation, all subject, however, to the
15 following limitations: No general public improvement shall be designed,
16 planned, constructed, reconstructed, or remodeled without prior approval of the
17 department, agency, board, commission, or authority charged with the
18 operation of such general public improvement; no rights-of-way for streets,
19 alleys, highways, or other thoroughfares shall be established, changed, or
20 vacated and no site for any public purpose shall be accepted until first approved
21 by ordinance or resolution of the Council; the Mayor may assign to another
22 department, agency, board, commission, or authority the designing, planning,
23 construction, reconstruction, or remodeling of a specific general public
24 improvement, or part thereof, in which event the department, agency, board,
25 commission, or authority to which the assignment is made shall be governed
26 and controlled by all limitations and provisions imposed on the Department of
27 Transportation and Infrastructure.

28 (i) All construction, reconstruction or remodeling of general public
29 improvements not performed by the Department, or with the
30 permission of the Manager and to the extent and in the manner
31 provided by ordinance or resolution of the Council by a person, firm,

1 or corporation entirely at his or her, their, or its expense, shall be
2 performed under contracts let by the Department without any action of
3 the Council except in the passage of the original ordinance or
4 resolution authorizing the improvements or contracts. All such
5 contracts shall be: (1) let to the lowest, responsive, qualified bidder,
6 or if not let in that manner; (2) let through a competitive selection
7 process. All solicitations for such contracts shall be advertised in an
8 official publication or in some other manner as provided by Charter or
9 ordinance, provided however, that if public advertisement is
10 impracticable, proposals shall be requested from at least three (3)
11 qualified bidders or proposers. The right to reject any or all bids is
12 reserved. No such contract for more than fifty thousand dollars shall
13 be made without a bond for its faithful performance, with sufficient
14 surety or sureties. No other surety than a surety company approved
15 by the Manager and Mayor shall be accepted. Any other mode of
16 letting such contracts shall be illegal and void.

17 (ii) The aggregate payments under any such contract shall not exceed
18 the aggregate estimate of the City Engineer or the amounts
19 appropriated. Upon notice and for substantial cause, the work under
20 such contract may be suspended or terminated forthwith by the Mayor
21 or the Manager. Every such contract shall be subject to the provisions
22 of this Charter and the provisions of any ordinance or resolution
23 authorizing the improvements or contracts.

24 (iii) In the letting of such contracts, the Department may impose such
25 conditions upon bidders and proposers with regard to bonds and
26 securities and such guarantees of good faith and responsibility on the
27 part of the bidders and proposers for the faithful completion of the
28 work or keeping the same in repair and providing for any other
29 material matter or thing in connection therewith as may be considered
30 "in the best interests of the City and County," as the same may be
31 defined by ordinance. In the absence of an ordinance, "in the best
32 interests of the City and County" shall be determined by the Manager.

1 The terms "qualified," "responsible" and "responsive," and
2 "competitive selection process" as used in this Section, may also be
3 defined by ordinance or, in the absence of an ordinance, determined
4 by the Manager.

- 5 (iv) Upon default in the performance of any such contract, the
6 Department may advertise and let a contract for the uncompleted
7 work in like manner, without further ordinance or resolution, and
8 charge the cost thereof to the original contractor upon his or her
9 contract; and when a deficiency shall in such case occur, the
10 Manager, with the approval of the mayor, may advance the amount
11 thereof out of any available fund in the City and County and recover
12 the same by suit on the original contract and bond.

13 (B) *Supervision and management of local public improvement districts.* Supervision
14 and management of all proceedings relating to local public improvement districts.

15 (C) *Control of public ways, thoroughfares and other public facilities.* Supervision and
16 control of all streets, alleys, highways, thoroughfares, sewers, bridges, viaducts,
17 tunnels, off-street parking and other like structures wherever located, including the
18 supervision of lighting and all facilities for the lighting thereof, to conduct traffic
19 engineering studies of pedestrian and vehicular movements thereon, to mark
20 streets and related structures and to provide, operate and maintain traffic signals
21 and controls.

22 (D) *Non-motorized transportation facilities.* Supervision and control of all pedestrian
23 facilities, bikeways, non-motorized trails and other like structures, except those that
24 are maintained and operated under the authority of or by agreement with the
25 Department of Parks and Recreation.

26 (E) *Transportation services.* Planning, design, construction, maintenance and operation
27 of mass transportation systems and other public transportation services, either
28 individually or jointly with the Regional Transportation District or any other public or
29 private entity.

30 (F) *Safety programs.* Planning, design, construction, maintenance, and operation of
31 programs and public improvements related to enhancing and improving the safety

1 of all users of the right of way, including pedestrians, bicyclists, and motor vehicle
2 operators.

3 (G) *Surveying functions*. Management and control of all functions assigned by general
4 law to the County Surveyor.

5 (H) *Custody of documents*. Custody of all plats, maps, records, notes, surveys, papers,
6 files and documents heretofore or hereafter belonging to the Office of the City
7 Engineer, the Office of the County Surveyor and the Department of Improvements
8 and Parks or pertaining to surveys of the City and County; provided, however, that
9 all such documents, including all private memoranda made by the City Engineer or
10 any of his or her assistants relating to surveys or to the City Engineer's data of the
11 City and County, shall remain the property of the City and County and shall be
12 transmitted in their entirety to successors in office.

13 (I) *Employment of professional and technical personnel*. In the manner and pursuant
14 to terms and conditions fixed by the Mayor and the cabinet, to employ qualified
15 professional or technical personnel for the performance of the duties imposed on
16 or the powers vested in the Department and to employ such professional or
17 technical personnel for any other department, agency, board, commission or
18 authority to which is assigned any duty or power of the Department.

19 (J) *Rules and Regulation*. The Council shall provide, by ordinance, for the
20 enforcement of the rules and regulations of the Department.

21 **§2.3.4. Division of Public Works**

22 There shall be and hereby is created within the Department of Transportation and
23 Infrastructure a Division of Public Works. The following duties and powers are
24 hereby vested in the Division of Public Works.

25 (A) *Operation of certain municipal facilities*. Management, operation, and control of all
26 public utilities belonging to the City and County (except the water works system
27 and plant) and of all facilities owned by the City and County for sewage, trash,
28 garbage, and offal disposal, and management and control of the operation, care,
29 repair, and maintenance of all structures in which and all land on which those
30 facilities are located and operated, except for solid or hazardous waste disposal

1 sites under the management and control of the Manager of Public Health and
2 Environment.

3 (B) *Collection of sewage, trash, garbage, offal and other offensive substances.*

4 Management and control of the collection, removal and disposition of all sewage,
5 trash, garbage, offal and other offensive substances either by the Department or
6 under contracts let by the Department. For the purposes of this Section, and in the
7 manner and pursuant to terms and conditions fixed by the Mayor and the cabinet
8 and subject to ordinance or resolution approval by the Council, the Department
9 may enter into such contracts as in the judgment of the Manager are to the best
10 interests of the City and County.

11 (C) *Privately owned sewers.* To permit or not permit private sewers to be constructed
12 or reconstructed and attached to municipal sewers, either temporarily or
13 permanently; provided, however, that no expense shall be incurred by the City and
14 County in constructing, reconstructing or maintaining such private sewers.

15 (D) Management and control of the designing, planning, construction, and
16 reconstruction of the facilities described in subsection (A) of this section, in
17 accordance with the requirements set forth in section 2.3.3 (A).

18 (E) Employ qualified professional or technical personnel for the performance of the
19 duties imposed on or the powers vested in the Division by this section in
20 accordance with the requirements set forth in section 2.3.3 (F).

21 Subsection 2.2.10 (A) shall be amended by deleting the language stricken and adding the
22 language underlined, to read as follows:

23 **§ 2.2.10 - Mayor's cabinet.**

24 (A) The Mayor and the cabinet, which shall consist of the Manager of the Department
25 of ~~Public Works~~ Transportation and Infrastructure, the Manager of the Department
26 of Finance, the Manager of the Department of Parks and Recreation, the Manager
27 of the Department of Public Health and Environment, the Manager of the
28 Department of Safety, the Manager of the Department of General Services, the
29 Manager of the Department of Human Services, the Manager of the Department of
30 Aviation, the Manager of the Department of Community Planning and
31 Development, and the City Attorney, shall formulate the general administrative

1 policies of the City and County, and each Manager and Officer in its department,
2 shall be responsible for and have full power to carry out such policies.

3 Subsection 2.4.4 (D) shall be amended by deleting the language stricken and adding the
4 language underlined, to read as follows:

5 **§ 2.4.4 - Powers and duties of Department of Parks and Recreation.**

6 The following duties and powers are hereby vested in the Department of Parks
7 and Recreation.

8 (D) *Landscaping of public ways and thoroughfares.* Landscaping and
9 beautification, together with such horticultural maintenance as appears desirable in
10 the public interest, of suitable portions of any public ways, thoroughfares, pleasure
11 driveways and similar facilities as determined by agreement with the Department of
12 ~~Public Works~~ Transportation and Infrastructure.

13 Section 7.4.6 shall be amended by deleting the language stricken and adding the
14 language underlined, to read as follows:

15 **§ 7.4.6 - Board of Equalization.**

16 There is hereby created a Board of Equalization to consist of the President of
17 Council or the President's designee, the Manager of ~~Public Works~~ Transportation
18 and Infrastructure or the Manager's designee, the Manager of Finance or the
19 Manager's designee, the Clerk and Recorder or the Clerk and Recorder's
20 designee, and the Manager of General Services or the Manager of General
21 Services' designee, any three of whom shall constitute a quorum for the transaction
22 of business, to perform all the duties and functions in reference to the equalization,
23 reduction, abatement and rebate of general taxes required by the constitution and
24 general laws of the State to be performed by County Commissioners, except the
25 levying of the taxes, which shall be levied by the Council.

26 Sections 7.6.1 and 7.6.2 shall be amended by deleting the language stricken and adding
27 the language underlined, to read as follows:

28 **§ 7.6.1 - Local public improvement districts.**

1 The City and County shall have the power to contract for and make local public
2 improvements, to assess the cost thereof wholly or in part upon the property
3 especially benefited. Any procedures necessary to implement this power, to the
4 extent not governed by this Charter, shall be established by ordinance. In all cases
5 when the cost of a local public improvement is to be assessed wholly or in part
6 upon the property benefited, the improvement shall be initiated and proposed by
7 filing a petition therefor with the Department of ~~Public Works~~ Transportation and
8 Infrastructure; or the Manager of ~~Public Works~~ Transportation and Infrastructure,
9 without receiving a petition therefor, may initiate and propose such local public
10 improvements. In all cases when the cost of a local public improvement is to be
11 assessed wholly or in part upon the property benefited, the cost shall be assessed
12 in proportion to benefits received, subject to any provision for reduction or waiver of
13 assessments as may be provided by ordinance.

14 **§ 7.6.2 - Local maintenance districts.**

15 The City and County of Denver shall have the power to create local
16 maintenance districts, conferring special benefits upon real property within such
17 districts and general benefits to the City and County at large under provisions as
18 the City and County may by ordinance provide, for the continuing care, operation,
19 security, repair, maintenance and replacement of local public improvements. The
20 City and County shall also have the power to consolidate or dissolve local
21 maintenance districts according to procedures as may be provided by ordinance. In
22 all cases when the costs of the continuing care, operation, security, repair,
23 maintenance and replacement of local public improvements are to be assessed
24 wholly or in part upon the real property benefited, the district therefor shall be
25 initiated and proposed by filing a petition therefor with the Department of ~~Public~~
26 ~~Works~~ Transportation and Infrastructure; or, in the alternative, the Manager of
27 ~~Public Works~~ Transportation and Infrastructure without receiving a petition therefor
28 may initiate and propose the establishment of such a District. In all cases when the
29 costs of the continuing care, operation, security, repair, maintenance and
30 replacement of local public improvements are to be assessed wholly or in part
31 upon the real property to be benefited, the costs shall be assessed on said real

property in proportion to the benefits received, subject to any provision for reduction or waiver of assessments as may be provided by ordinance.

Subsection 9.2.1 (B) shall be amended by deleting the language stricken and adding the language underlined, to read as follows:

§ 9.2.1 - Salaries and benefits of certain Charter officers set by ordinance.

The annual salaries and benefits of the following officers of the City and County of Denver shall be set by ordinance as hereinafter provided:

(B) *Appointed Charter officers.* Manager of the Department of Public Health and Environment; Manager of the Department of ~~Public Works~~ Transportation and Infrastructure; City Attorney; Manager of the Department of Safety; Manager of the Department of Finance; Manager of the Department of Parks and Recreation; Manager of the Department of General Services; Manager of the Department of Human Services; Manager of the Department of Aviation; Manager of the Department of Community Planning and Development; Director of Excise and Licenses.

Section 2. The voting machines and paper ballot for said election shall carry the following designation, which shall be the title and submission clause:

REFERRED QUESTION _____

Shall the Charter of the City and County of Denver be amended to create the Department of Transportation and Infrastructure, to require the department to perform the powers and duties formerly performed by the Department of Public Works, and to assign to the department new powers and duties in regard to transportation services, transportation safety programs, and non-motorized transportation facilities?

Section 3. Each elector voting at the election and wishing to vote for or against the amendment shall indicate the elector's choice by depressing the appropriate counter of the voting machine which indicates the word "YES" or the word "NO", or by appropriate marking upon paper ballots when used.

Section 4. 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

1 publications, give such notices, make such appointments, and do all such other acts and things in
2 connection with the submission of this Charter amendment to the registered electors of the City and
3 County of Denver at the election as are required by the Constitution and laws of the State of
4 Colorado and the Charter and ordinances of the City and County of Denver.

5 **Section 5.** The ballots cast at such election shall be canvassed and the results ascertained,
6 determined, and certified in accordance with the requirements of the Constitution and laws of the
7 State of Colorado and the Charter and ordinances of the City and County of Denver.

8 **Section 6.** If any section, paragraph, clause, or other portion of this ordinance is held to be
9 invalid or unenforceable for any reason, the validity of the remaining portions of this ordinance shall
10 not be affected.

11 COMMITTEE APPROVAL DATE: June 4, 2019

12 MAYOR-COUNCIL DATE: June 11, 2019

13 PASSED BY THE COUNCIL: _____

14 _____ - PRESIDENT

15 APPROVED: _____ - MAYOR _____

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

19 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____; _____

20 PREPARED BY: Kwali M. Farbes, Assistant City Attorney DATE: June 13, 2019

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

25 Kristin M. Bronson, Denver City Attorney

26 BY: _____, Assistant City Attorney DATE: _____