

1 BY AUTHORITY

2 ORDINANCE NO. _____
3 SERIES OF 2018

COUNCIL BILL NO. 641
COMMITTEE OF
4 REFERENCE: Finance

5
6 A BILL

7
8 For an ordinance increasing the sales and use tax by a rate of 0.25 percent and
9 dedicating the revenue derived from the tax rate increase to fund Denver parks, trails,
10 and open space, subject to the approval of the voters at a special municipal election to
11 be conducted in coordination with the state general election on November 6, 2018.

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

14
15 **Section 1.** Subject to voter approval as specified in Section 7 of this ordinance, Account
16 Number 97000-282110 of the Fund Plan, Section 20-18, D.R.M.C., concerning apportionment
17 of the sales, use and lodger's tax, is amended by the addition of a new subsection (i), to read
18 as follows (with existing subsection (i) being re-designated as subsection (j)):

19
20 **§. 20-18. Fund Plan**

21
22 *Account No. 97000-282110*

23
24 *Name of account:* Unapportioned sales, use and lodger's tax

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

27 *Disposition of funds:*

28
29 i. Monthly, (1) allocation apportionment and transfer of only those revenues
30 raised at the rate of 0.25 percent of gross taxable sales from sales and use taxes
31 levied to the Parks, Trails, and Open Space Fund.

32
33 **Section 2.** Subject to the approval of the voters as specified in Section 7 of this

1 ordinance, Section 53-27, D.R.M.C., concerning sales taxes is amended by the addition of a
2 new subsection (h) to read as follows:

3
4 (h) *Sales tax increment to fund the Parks, Trails, and Open Space Program.* In addition to the
5 sales tax otherwise imposed by this section, a tax of twenty-five one-hundredths of one percent
6 (.25%) must be paid on all taxable sales of commodities or services, except on commodities or
7 services specified in subsection (b) of this section, beginning January 1, 2019. The revenue
8 from such additional tax must be used for the sole purpose of funding the Parks, Trails, and
9 Open Space Program created in article XII of chapter 39.

10
11 **Section 3.** Subject to the approval of the voters as provided in Section 7 of this
12 Ordinance, subsection (a) of section 53-28, D.R.M.C., concerning collection of sales is
13 amended by adding the language underlined and deleting the language stricken, to read as
14 follows:

15
16 **Sec. 53-28. Retailer responsible for payment of tax.**

17 (a) *Amount.* Every retailer shall, irrespective of other provisions of this article, be
18 liable and responsible for the payment of an amount equivalent to ~~three and sixty-five~~
19 ~~one-hundredths (3.65) percent~~ three and 90 one-hundredths (3.90) percent of the
20 retailer's taxable sales of tangible personal property, products, or services specified in
21 this article, except: (1) Aviation and railway fuel, as to which the rate of four cents
22 (\$0.04) for each gallon purchased shall apply; (2) Automotive vehicles when they are for
23 any term of thirty (30) days or less hired for use, rented, leased or transferred under a
24 grant of a license to use, as to which a rate of taxation as set forth in subsection 53-
25 27(b)(2) shall apply; (3) Food and beverages not exempted from taxation under
26 subsection 53-26(8) of this article, as to which the rate of four (4) percent shall apply; (4)
27 For each of which respective rates aforesaid the retailer shall be liable for an equivalent
28 amount; (5) Every retailer shall, on its return, round each calculation, as directed on such
29 form as the manager may require, to the nearest whole dollar and remit the rounded
30 amount. In rounding under this section, any amount of forty-nine cents (\$0.49) or less
31 shall be rounded down, and any amount of fifty cents (\$0.50) or higher shall be rounded
32 up.

33
34 **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 new
2 subsection (l) to read as follows:

3
4 (l) *Use tax increment to fund the Parks, Trails, and Open Space Program.* In
5 addition to the use tax otherwise imposed by this section, a tax of twenty-five one-
6 hundredths of one percent (.25%) must be paid on all taxable uses, consumptions,
7 distributions, and storages of commodities and services, except on commodities and
8 services specified in subsection (b) of this section, beginning January 1, 2019. The
9 revenue from such additional tax must be used for the sole purpose of funding the
10 Parks, Trails, and Open Space Program created in article XII of chapter 39.

11
12 **Section 5.** Subject to the approval of the voters as provided in Section 7 of this
13 ordinance, subsection (a) of section 53-99, D.R.M.C., concerning collection of use taxes, is
14 amended by the addition of the language underlined and the deletion of the language stricken,
15 to read as follows:

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

18 (a) *Amount.* Every retailer shall, irrespective of other provisions of this article, be
19 liable and responsible for the payment of an amount equivalent to ~~three and sixty-five~~
20 ~~one-hundredths (3.65) percent~~ three and 90 one-hundredths (3.90) percent of taxable
21 sales made by him of tangible personal property, products, and services, except: (1)
22 Aviation and railway fuel, as to which the rate of four cents (\$0.04) for each gallon
23 purchased shall apply; (2) Automotive vehicles when they are for any term of thirty (30)
24 days or less hired for use, rented, leased or transferred under a grant of a license to
25 use, as to which a rate of taxation as set forth in subsection 53-98(b)(2) shall apply; (3)
26 Food and beverages not exempted from taxation under subsection 53-26(8) of the city
27 retail sales tax article, as to which the rate of four (4) percent shall apply; (4) For each of
28 which respective rates aforesaid the retailer shall be liable for an equivalent amount; and
29 (5) Every retailer shall, on its return, round each calculation, as directed on such form as
30 the manager may require, to the nearest whole dollar and remit the rounded amount. In
31 rounding under this section, any amount of forty-nine cents (\$0.49) or less shall be
32 rounded down, and any amount of fifty cents (\$0.50) or higher shall be rounded up.

33
34

1 **Section 6.** Subject to the approval of the voters as provided in Section 7 of this
2 ordinance, Chapter 39, D.R.M.C., concerning Parks and Recreation, is amended by the
3 addition of a new Article XII, to read as follows:
4

5 **ARTICLE XII. PARKS, TRAILS, AND OPEN SPACE PROGRAM**
6

7 **Sec. 39-223. Legislative Declaration.** (a) The City Council finds, determines,
8 and declares:

9 (1) Since its founding, the city and county of Denver (“the city”) has endeavored to
10 build a city in a park through a continued and consistent prioritization of parks, trails,
11 open space, parkways, green medians, street and park trees, greenways and
12 waterways, and a system of city and mountain parks;

13 (2) The current gap in funding for acquiring additional land for parks, trails, and
14 open spaces; developing and improving new and existing parks, Denver’s mountain
15 parks, open spaces, and trails; restoring and protecting waterways, rivers, and streams;
16 purchasing, planting and caring of trees in parks and in the public right of way; and
17 operating and maintaining any additional acquisitions and new capital improvements to
18 the City’s parks and mountain parks systems is insurmountable without an additional
19 revenue stream;

20 (3) The City faces increased pressure from population growth, development, and
21 densification and park amenities—from new parks, like dog parks, to improvements in
22 the mountain parks, and to protection and restoration of urban waterways—are lagging
23 due to a lack of funding;

24 (4) The City now ranks at the bottom of the list compared to peer cities on park
25 acres per resident and the percentage of residents who can get to a park with a 10-
26 minute walk, and, according to The Trust for Public Land’s recently released 2018
27 ParkScore® ranking of park systems in the 100 largest U.S. cities, the City fell to ranking
28 number 26 from number 20 in one year;

29 (5) Dedicated, additional funding for parks will help achieve these goals and
30 ensure that future generations will be able to enjoy Denver parks and open space.

31 (b) Therefore, the city council has determined that the question of whether the
32 City shall be authorized to impose a 0.25 percent sales tax for the purposes and in the
33 manner set forth in this ordinance should be submitted to the registered electors of the
34 City at the special municipal election to be conducted in coordination with the state

1 general election on November 6, 2018.

2
3 **Sec. 39-224. Permitted Uses of Revenue in the Parks, Trails, and Open**
4 **Space Fund.**

5 (a) All monies derived from the sales and use taxes in the Parks, Trails, and
6 Open Space Fund must be expended solely on:

- 7 (1) Acquiring additional land for parks, open spaces, and trails;
8 (2) Developing, improving, and maintaining new and existing parks, including
9 Denver's mountain parks, open spaces, and trails;
10 (3) Restoring and protecting waterways, rivers, and streams;
11 (4) Purchasing, planting and caring of trees; and
12 (5) Operating and maintaining any additional acquisitions and capital
13 improvements.

14 (b) *Cap on administrative costs.* Monies in the Parks, Trails, and Open Space
15 Fund may be expended to pay the costs incurred by the city associated directly with the
16 administration of the funds; except that, in no event may the amount expended from the
17 funds for administrative expenses in any year exceed five percent (5%) of the amount of
18 revenue received in the fund in that year.

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

21 (d) *Administration of funds.* The Manager of Parks and Recreation designated in
22 accordance with § 2.4.2 of the Charter will manage the Fund.

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

26 (f) *Maintenance of Effort.* All monies in the Fund must be used in accordance with
27 this section and may not replace nor supplant any general fund appropriations allocated
28 each year to the Department of Parks and Recreation.

29 (g) *Rulemaking.* The Manager of Parks and Recreation may promulgate any rules
30 necessary for the proper administration of this section.

31 (h) *Reporting.* A report of fund expenditures must be submitted annually to the
32 mayor, city council, city auditor, and the Denver Parks and Recreation Advisory Board.

33 (i) *Planning.* Within one year of the adoption of this Article XII, and every five
34 years thereafter, the Manager of Park and Recreation, as designated in accordance with

1 § 2.4.2 of the Charter, must submit a five-year plan to the City Council and the Denver
2 Parks and Recreation Advisory Board on the planned revenue uses in the Parks, Trails,
3 and Open Space Fund.
4

5 **Section 7.** In accordance with § 3.3.6 of the Charter and Article X, Section 20 of the
6 Colorado Constitution, this ordinance will be submitted to a vote of the registered electors of the
7 City and County of Denver at a special municipal election to be coordinated with the state
8 general election occurring November 6, 2018. Each elector desirous of voting for or against the
9 ordinance must cast a vote as provided by law either “Yes” or “No” on the proposition:
10

11 SHALL CITY AND COUNTY OF DENVER SALES AND USE TAXES BE INCREASED
12 BY \$45.94 MILLION ANNUALLY, COMMENCING JANUARY 1, 2019, AND BY
13 WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER,
14 FROM A TWENTY-FIVE ONE-HUNDREDTHS OF ONE PERCENT (0.25%) SALES
15 AND USE TAX RATE (2.5 CENTS ON A TEN-DOLLAR PURCHASE), THAT WILL NOT
16 BE COLLECTED ON SALES OF FOOD FOR HOME CONSUMPTION OR
17 PRESCRIPTION DRUGS, TO BE EXPENDED SOLELY ON:

- 18 • ACQUIRING ADDITIONAL LAND FOR PARKS, TRAILS, AND OPEN SPACE;
- 19 • DEVELOPING, IMPROVING, AND MAINTAINING NEW AND EXISTING
20 PARKS, TRAILS AND OPEN SPACE, INCLUDING DENVER’S MOUNTAIN
21 PARKS;
- 22 • RESTORING AND PROTECTING WATERWAYS, RIVERS, AND STREAMS;
- 23 • PURCHASING, PLANTING, AND CARING OF TREES; AND
- 24 • OPERATING AND MAINTAINING ANY RELATED ADDITIONAL ACQUISITIONS
25 AND CAPITAL IMPROVEMENTS,

26 AND, IN CONNECTION THEREWITH, SHALL NO MORE THAN FIVE PERCENT (5%)
27 OF THE TOTAL ANNUAL REVENUES DERIVED FROM THE INCREASE IN SALES
28 AND USE TAX BE SPENT ON ADMINISTRATIVE COSTS RELATED TO THE ABOVE
29 PURPOSES; AND SHALL THE MONIES DERIVED FROM THE INCREASE IN SALES
30 AND USE TAX NOT BE USED TO OFFSET ANY CURRENT OR FUTURE REVENUE
31 EXPENDITURES FROM THE GENERAL FUND; AND SHALL THE REVENUES FROM
32 THESE INCREASED TAXES BE COLLECTED AND SPENT IN EACH FISCAL YEAR
33 BY DENVER WITHOUT REGARD TO ANY EXPENDITURE, REVENUE-RAISING, OR

1 OTHER LIMITATION CONTAINED WITHIN ARTICLE X, SECTION 20 OF THE
2 COLORADO CONSTITUTION OR ANY OTHER LAW?
3

4 **Section 8.** The officials of the City and County of Denver charged with duties relating to the
5 election must, before the election, issue such calls, make such certifications and publications,
6 give such notices, make such appointments, and do all such other acts and things in
7 connection with the submission of this code amendment to the registered electors of the City
8 and County of Denver at the election required by the Constitution and laws of the State of
9 Colorado and the Charter and ordinances of the City and County of Denver.
10

11 **Section 9.** The ballots cast at such election must be canvassed and the results ascertained,
12 determined, and certified in accordance with the requirements of the Constitution and laws of
13 the State of Colorado and the Charter and ordinances of the City and County of Denver.
14

15 **Section 10.** If any section, paragraph, clause, or other portion of this ordinance is held to be
16 invalid or unenforceable for any reason, the validity of the remaining portions of this ordinance
17 shall not be affected.
18

19 COMMITTEE APPROVAL DATE: _____, 2018.

20 MAYOR-COUNCIL DATE: _____, 2018.

21 PASSED BY THE COUNCIL _____
22 2018

23 _____ - PRESIDENT

24 APPROVED: _____ - MAYOR _____
25 2018

26 ATTEST: _____ - CLERK AND RECORDER,
27 EX-OFFICIO CLERK OF THE
28 CITY AND COUNTY OF DENVER
29

30 NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2018;
31 _____ 2018
32

33 PREPARED BY: Troy Bratton, Assistant City Attorney; DATE: _____
34

35 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office

1 of the City Attorney. We find no irregularity as to form, and have no legal objection to the
2 proposed ordinance. The proposed ordinance _____ **is/** _____ **is not** submitted to the City
3 Council for approval pursuant to § 3.2.6 of the Charter.
4

5 Kristin M. Bronson

6 City Attorney

7

8 BY: _____, _____ City Attorney

9 DATE: _____