

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2024
AMENDED 8-19-2024

COUNCIL BILL NO. 24-0972
COMMITTEE OF REFERENCE:
Safety, Housing & Homelessness

A BILL

For an ordinance referring a question to the ballot to increase the sales and use tax by a rate of 0.50 percent and dedicating the revenue derived from the tax rate increase to fund affordable housing and related housing support services citywide subject to the approval of the voters at a special municipal election to be conducted in coordination with the state general election on November 5, 2024.

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 unapportioned sales, use and lodger’s tax, is amended by the addition of a new subsection (o), to read as follows (with existing subsections (o) and (p) being re-designated as subsections (p) and (q)):

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:

o. Monthly, allocation apportionment and transfer of only those revenues raised at the rate of one-half of one (0.50) percent of gross taxable sales from sales and use taxes levied to the Affordable Denver Fund in the General Government Special Revenue Fund.

Section 2. Subject to the approval of the voters as specified in Section 7 of this ordinance, Section 53-56, D.R.M.C., concerning sales taxes is amended by the addition of a

1 new subsection (n) to read as follows:

2 **Sec. 53-56. - Retailers to collect tax.**

3 (n) Sales tax increment to fund Affordable Denver Fund. In addition to the sales tax
4 otherwise imposed by this section, a tax of one-half of one percent (.50%) must be paid on all
5 taxable sales of commodities or services, except on commodities or services specified in
6 subsection (b) of this section, commencing January 1, 2025, and by whatever additional
7 amounts are raised annually thereafter through December 31, 2064.

8
9 **Section 3.** Subject to the approval of the voters as provided in Section 7 of this
10 Ordinance, subsection (a) of section 53-57, D.R.M.C., concerning collection of sales is
11 amended by adding the language underlined and deleting the language stricken, to read as
12 follows:

13 **Sec. 53-57. Retailer responsible for payment of tax.**

14 (a) *Amount.* Every retailer shall, irrespective of other provisions of this article, be
15 liable and responsible for the payment of an amount equivalent to ~~four and eighty-one one-~~
16 ~~hundredths (4.81) percent~~ five and thirty-one one-hundredths (5.31) percent of the retailer's
17 taxable sales of tangible personal property, products, or services specified in this article,
18 except:

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

21 (2) Automotive vehicles when they are for any term of thirty (30) days or less hired
22 for use, rented, leased or transferred under a grant of a license to use, as to which a rate of
23 taxation as set forth in subsection 53-56(b)(2) shall apply;

24 (3) Food and beverages not exempted from taxation under subsection 53-55(a)(8)
25 of this article, as to which the rate of four (4) percent shall apply;

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

28 (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 amount.
30 In rounding under this section, any amount of forty-nine cents (\$0.49) or less shall be rounded
31 down, and any amount of fifty cents (\$0.50) or higher shall be rounded up.

32
33 **Section 4.** Subject to the approval of the voters as provided in Section 7 of this
34 ordinance, Section 53-106, D.R.M.C., concerning use taxes is amended by the addition of a

1 new subsection (r) to read as follows:

2

3 **Sec. 53-106. - Retailers to collect tax.**

4 (r) *Use tax increment to fund the Affordable Denver Fund.* In addition to the use tax
5 otherwise imposed by this section, a tax of one-half of one percent (.50%) must be paid on all
6 taxable uses, consumptions, distributions, and storages of commodities and services, except
7 on commodities and services specified in subsection (b) of this section, commencing January
8 1, 2025, and by whatever additional amounts are raised annually thereafter through
9 December 31, 2064.

10

11 **Section 5.** Subject to the approval of the voters as provided in Section 7 of this
12 ordinance, subsection (a) of section 53-107, 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:

15 **Sec.53-107. Retailer responsible for payment of tax.**

16 (a) *Amount.* Every retailer shall, irrespective of other provisions of this article, be
17 liable and responsible for the payment of an amount equivalent to ~~four and eighty-one one-~~
18 ~~hundredths (4.81) percent~~ five and thirty-one one-hundredths (5.31) percent of taxable sales
19 made by him of tangible personal property, products, and services, except:

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

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

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

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

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

33

34 **Section 6.** Subject to the approval of voters as provided in Section 7 of this ordinance,

1 Chapter 27, Article V, Division 4, D.R.M.C. concerning dedicated funding for affordable
2 housing repealed and re-enacted to read as follows:

3
4 **DIVISION 4. – AFFORDABLE DENVER FUND.**

5 **Sec. 27-170. – Legislative Intent.**

6 (a) The City Council finds, determines, and declares:

7 (1) According to the 2024 Regional Housing Needs Assessment conducted by the
8 Denver Regional Council of Governments (“DRCOG”), Denver has not produced enough
9 housing to keep pace with population and job growth, with an anticipated gap of 44,000 units
10 under 100% of area median income (“AMI”) in the next 10 years. The study also found that a
11 lack of dedicated funding and financing tools inhibits Denver’s ability to meet this demand of
12 affordable housing;

13 (2) A 2019 study conducted by Root Policy Research found a nearly 50,000 unit
14 shortage of affordable housing in Denver, with most need at 60% of AMI or below. The same
15 study found that only 7% of the overall housing stock in Denver is income-restricted, falling
16 short of the more than 130,000 households with incomes at or below 80% of AMI who do not
17 have access to fair market housing;

18 (3) According to the 2023 Point in Time (“PIT”) study by the Metro Denver Homeless
19 Initiative, there are more than 5,800 people experiencing homelessness on a single night in
20 Denver, and over 24,000 people experience homelessness in a given year in Denver
21 according to the region’s Homeless Management Information System (“HMIS”). Data in both
22 the PIT and HMIS show the high cost of housing as the top cause of homelessness;

23 (4) According to the Denver Housing Market Analysis by Root Policy Research,
24 between 2010 and 2019, 10,595 low-income households, or 21% of households between 0-
25 60% of AMI, have been forced to move out of Denver in order to obtain affordable housing,
26 harming the city’s cultural diversity and economic growth while reducing economic mobility;

27 (5) According to the 2022 U.S. Census Bureau, wages have risen in Denver by
28 110% since 2000 and the cost of housing has risen 220%, meaning the average Denver
29 resident’s income no longer keeps pace with their ability to pay a rent or mortgage;

30 (6) According to the 2022 American Community Survey (ACS) data from the U.S.
31 Census Bureau, more than 50% of Denver’s renter households are housing burdened,
32 including 80% of all renter households earning less than \$75,000 annually;

33 (7) The COVID-19 pandemic worsened the housing affordability crisis in Denver,
34 leading to historic eviction rates for households unable to pay rent. In 2023, Denver had over

1 12,900 eviction actions, when the annual average over the past 15 years was a little over
2 8,000. More and more households each year are unable to make ends meet due to the high
3 cost of housing;

4 (8) In Denver’s Comprehensive Plan 2040, adopted by Denver City Council in May
5 2019, there are 3 goals focused on housing affordability in Denver, including building housing
6 as a continuum to serve residents across a range of incomes, ages, and needs, developing
7 housing that is affordable to residents of all income levels, and preserving existing affordable
8 housing. Investment is needed to advance these goals and create an equitable, inclusive city
9 with a high quality of life for all residents, regardless of income level, race, gender, ability or
10 age;

11 (9) The Department of Housing Stability’s (HOST) 5-Year Strategic Plan, approved
12 by City Council in 2021, identifies key areas of investment for housing affordability, including
13 the creation and preservation of affordable homes, the creation of new units of supportive
14 housing, the creation of more truly mixed-income housing, increased homeownership, and
15 expanding rental subsidies to create a healthy, housed, and connected Denver;

16 (10) HOST shall publish AMI levels for households of a given size as established
17 annually by the U.S. Department of Housing and Urban Development, or its successor
18 agency;

- 19 (11) It is the intent of City Council that the monies in this fund will:
- 20 a. support the goals of Comprehensive Plan 2040 and HOST’s periodic
21 strategic plans;
 - 22 b. assist in efforts to increase the pace at which the affordable units are
23 provided to all Denver residents for whom costs have outstripped affordability, while
24 prioritizing areas of highest demonstrated community need for both rental and
25 homeownership units and recognizing that public investment is most necessary for those least
26 able to access market rate housing;
 - 27 c. reduce displacement of renters and homeowners who cannot afford
28 prevailing housing costs, and those on fixed incomes, promote long-term affordability and
29 neighborhood stability, and avoid increased concentration of poverty;
 - 30 d. promote equity and remedy historic and structural inequity and
31 disinvestment and to increase public participation and control over affordable housing assets;
 - 32 e. support exploration of new financing models and the benefits of cross-
33 subsidization and mixed-income development to catalyze additional affordable housing for
34 owners and renters;

1 f. be spent to benefit all of Denver, including people with disabilities. Funds
2 should be prioritized for housing compliant with the Americans with Disabilities Act's 2010
3 Standards for Accessible Design, the Colorado Standards for Accessible Housing, and the
4 architectural concept of universal design. Specifically, funds should encourage the
5 construction of Type A dwelling units and focus on Type B dwelling units, as those terms are
6 defined in the "Accessible and Usable Buildings and Facilities" standard, or any successor
7 standard, promulgated and amended from time to time by the international code council. The
8 structure itself should encourage common elements that allow everyone to access and use
9 the space in a similar manner. Any application for affordable Denver funds should exceed
10 these state and federal minimums in proportion to the amount of funds received; and

11 g. prioritize sustainable housing, promote community health and
12 environmental sustainability by promoting sustainable and energy efficient environmental
13 design that facilitates citywide decarbonization and environmental justice goals, and expand
14 and enhance access to intentional green spaces and environmental amenities;

15 (12) A dedicated, additional funding source is necessary to increase the supply of
16 affordable housing for owners and renters, to provide financial and service-related assistance
17 to owners and renters, and to ensure Denverites can afford to live in the City and County of
18 Denver long-term.

19 (b) Therefore, the City Council has determined that the question of whether the City
20 shall be authorized to impose a 0.5% sales and use tax for the purposes and in the manner
21 set forth in this ordinance should be submitted to the registered electors of the City at the
22 special municipal election to be conducted in coordination with the state general election on
23 November 5, 2024.

24 **Sec. 27-171. – Permitted uses of revenue in the Affordable Denver Fund.**

25 (a) Revenue received for the Affordable Denver Fund (the "fund") shall be used on
26 the following programs designed to serve the demonstrated community housing needs for
27 households living at or below eighty (80) percent of Denver's Area Median Income (AMI),
28 except as otherwise provided in part (b) of this section:

29 (1) To increase the long-term supply of affordable housing units or prevent
30 displacement of cost-burdened households through production, preservation, financing,
31 acquisition, conversion, subsidies, or any other method; and

32 (2) To provide financial and service-related assistance to renters and other persons
33 in need of housing.

34 (b) In addition to uses in part (a), the fund may be used:

1 (1) To support homebuyer and/or homeowner assistance programs designed to
2 serve households living at or below one-hundred twenty (120) percent of AMI, including but
3 not limited to, programs to ensure preservation of housing, programs to reduce housing costs
4 for homeowners and persons seeking to purchase homes, and support for homeowner
5 investments to expand affordable housing supply; and

6 (2) To increase the supply of affordable housing units for renters in innovatively
7 funded mixed-income projects that have an income-average of one hundred (100) percent or
8 less of AMI, provided the project delivers more low-income affordable units that would
9 otherwise not be created.

10 (c) All housing produced under this fund shall be compliant with long-term
11 affordability standards.

12 (d) *Cap on administrative costs.* Monies in the fund may be expended to pay the
13 costs incurred by the city associated directly with the administration of the funds; except that,
14 in no event may the amount expended from the fund for city administrative expenses in any
15 year exceed three (3) percent of the amount of revenue received in the fund in that year.

16 (e) *Fund earnings.* Any interest earned on the balance of the fund accrues to the
17 Fund.

18 (f) *Administration of funds.* The manager of finance shall manage the fund.

19 (g) *Definition of area median income.* As used in this section, the term area median
20 income shall have the same meaning as provided in section 27-150.

21 (h) *Permanency.* If the monies in the fund are not expended at the end of the fiscal
22 year, such monies must remain in the fund to be expended in subsequent fiscal years.

23 (i) Planning

24 (1) First Year Plan. The department of housing stability, in coordination with the manager
25 of finance, shall prepare, and the housing stability strategic advisors shall take public input on,
26 review, and make recommendations regarding, a first year-plan for use of the funds in 2025. The
27 plan must expressly reflect the legislative intent in section 27-170(a)(11) and must include a
28 prioritization plan for distribution of the funds in 2025 according to demonstrated community needs.
29 The first-year plan shall be submitted for City Council approval no later than January 30, 2025.
30 Council shall approve the first-year plan within sixty (60) days of submission.

31 (2) HOST Strategic Plans. No later than January 30, 2026, the department of
32 housing stability shall submit the strategic plan for city housing expenditures required under
33 Sec. 27-164(a) to City Council. This plan must include a prioritization plan for distribution of
34 funds according to demonstrated community needs. The strategic plan shall be submitted to

1 Council for renewal no later than January 30, 2029. In the intervening years, the department
2 of housing stability, in coordination with the manager of finance, shall submit the strategic plan
3 to City Council for renewal if a change in prioritization is needed.

4 (j) *Reporting.*

5 (1) The executive director of the department of housing stability shall incorporate
6 into annual progress and intermittent reports made pursuant to section 27-164 information
7 on the number of units produced, preserved, financed, constructed, or otherwise acquired for
8 supportive and affordable housing, including the income levels for which those units were
9 produced, how the expenditures addressed the demonstrated community housing needs, and
10 the number of renters and owners that avoided displacement, due to the monies expended
11 from the fund. Such reports shall also include information on city control or ownership interest
12 in affordable housing assets, including any public debt leveraged in whole or in part by such
13 assets or revenues in the fund, and any other pertinent financial information; and

14 (2) The executive director of the department of housing stability shall produce a
15 "Denver Housing Needs Assessment Study" (the "Study") and report the findings and any
16 recommendations to City Council no later than December 31, 2026. The Study shall serve as
17 guidance for areas with the greatest demonstrated community needs to be targeted under
18 this section. The study shall be periodically updated as needed.

19 (k) *Review of fund.* The executive director of the department of housing stability
20 and the manager of finance shall jointly conduct a policy review of the fund created in this
21 division and report the findings and any recommendations to the city council no later than
22 January 1, 2028 and every two (2) years thereafter.

23
24 **Section 7.** The ballot shall contain the following title and submission clause:

25 SHALL DENVER SALES AND USE TAXES BE INCREASED \$100 MILLION
26 ANNUALLY, COMMENCING JANUARY 1, 2025, AND BY WHATEVER ADDITIONAL
27 AMOUNTS ARE RAISED ANNUALLY THEREAFTER THROUGH DECEMBER 31,
28 2064, TO EXPAND AND PRESERVE AFFORDABLE HOUSING FOR LOW- AND
29 MIDDLE-INCOME FAMILIES AND INDIVIDUALS, THROUGH A ONE-HALF OF ONE
30 PERCENT (0.5%) SALES AND USE TAX INCREASE (5 CENTS ON A \$10
31 PURCHASE), TO SUPPORT EFFORTS INCLUDING:

- 32
- 33 • PROVIDING MORE AFFORDABLE RENTAL HOUSING AND REDUCING
- 34 RENT; AND
- 35
- 36 • PROVIDING MORE AFFORDABLE HOMES FOR PURCHASE AND
- 37 PROGRAMS TO REDUCE THE COST OF BUYING A HOME;
- 38

1 AND MAY A PORTION OF THE ANNUAL REVENUES DERIVED FROM THIS
2 INCREASE BE SPENT ON ADMINISTRATIVE COSTS FOR THE ABOVE
3 PURPOSES, AND SHALL THE REVENUE AND EARNINGS ON THIS TAX BE
4 COLLECTED AND SPENT AS A VOTER-APPROVED REVENUE CHANGE AND AN
5 EXCEPTION TO THE LIMITS THAT MAY OTHERWISE APPLY UNDER ARTICLE X,
6 SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?
7

8 **Section 8.** The proper officials of the City and County of Denver as are charged with
9 duties relating to the election shall, before the election, issue such calls, make such
10 certifications and publications, give such notices, make such appointments, and do all such
11 other acts and things in connection with the submission of this code amendment to the
12 registered electors of the City and County of Denver at the election as are required by the
13 Constitution and laws of the State of Colorado and the Charter and ordinances of the City and
14 County of Denver.
15

16 **Section 9.** The ballots cast at such election shall be canvassed and the results
17 ascertained, determined, and certified in accordance with the requirements of the Constitution
18 and laws of the State of Colorado and the Charter and ordinances of the City and County of
19 Denver.
20

21 **Section 10.** If any section, paragraph, clause, or other portion of this ordinance is held
22 to be invalid or unenforceable for any reason, the validity of the remaining portions of this
23 ordinance shall not be affected.
24

25 COMMITTEE APPROVAL DATE: August 7, 2024

26 MAYOR-COUNCIL DATE: N/A

27 PASSED BY THE COUNCIL August 19, 2024

28 *Amursh P. Sandoval* - PRESIDENT

29 APPROVED: *Michael C. Johnston* - MAYOR Aug 20, 2024
Michael C. Johnston (Aug 20, 2024 14:39 MDT)

30 ATTEST: _____ - CLERK AND RECORDER,
31 EX-OFFICIO CLERK OF THE
32 CITY AND COUNTY OF DENVER
33

34 NOTICE PUBLISHED IN THE DAILY JOURNAL _____;

35
36 PREPARED BY: Anshul Bagga, Assistant City Attorney; DATE: July 8, 2024
37

1 Pursuant to section 13-9, D.R.M.C., this proposed ordinance has been reviewed by the office
2 of the City Attorney. We find no irregularity as to form, and have no legal objection to the
3 proposed ordinance. The proposed ordinance is not submitted to the City Council for approval
4 pursuant to § 3.2.6 of the Charter.
5

6 Kerry Tipper, Denver City Attorney

7 BY: Anshul Bagga, Assistant City Attorney

DATE: August 20, 2024