

Caring for Denver - Ballot Title

SHALL DENVER SALES AND USE TAXES BE INCREASED BY \$45 MILLION DOLLARS ANNUALLY, BEGINNING JANUARY 1, 2019, AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY, FROM A ONE-QUARTER OF ONE PERCENT SALES AND USE TAX RATE (25 CENTS ON A \$100-DOLLAR PURCHASE) TO BE USED TO FUND:

- **MENTAL HEALTH SERVICES AND TREATMENT FOR CHILDREN AND ADULTS;**
- **SUICIDE PREVENTION PROGRAMS;**
- **OPIOID AND SUBSTANCE ABUSE PREVENTION, TREATMENT AND RECOVERY PROGRAMS;**
- **FACILITIES AND PROGRAMS, FOR THOSE WITH MENTAL HEALTH AND SUBSTANCE ABUSE NEEDS, INCLUDING: HOUSING, JOINT EFFORTS OF FIRST-RESPONDERS AND MENTAL HEALTH EXPERTS, AND TRAINING FOR FIRST-RESPONDERS; TO REDUCE HOMELESSNESS, IMPROVE LONG-TERM RECOVERY, AND REDUCE THE USE OF JAILS AND EMERGENCY ROOMS,**

PROVIDED THAT THE NEW FUND SHALL NOT SUPPLANT EXISTING FUNDING SOURCES FOR MENTAL HEALTH PROGRAMS IN DENVER; THAT NO MORE THAN 5% OF THE TAX REVENUE IN ANY YEAR SHALL BE SPENT ON ADMINISTRATIVE EXPENSES; THAT GRANTS FROM THE NEW FUND SHALL BE MADE THROUGH A NON-PROFIT ENTITY WHOSE BOARD MEMBERS ARE APPOINTED BY THE MAYOR OF DENVER, THE DENVER DISTRICT ATTORNEY, AND THE PRESIDENT OF THE DENVER CITY COUNCIL; THAT BOARD MEMBERS SHALL BE APPOINTED DUE TO THEIR POSITIONS AS SPECIFIED ELECTED OR APPOINTED PUBLIC OFFICIALS OR THEIR EXPERIENCE OR INTEREST IN SPECIFIC CATEGORIES OF MENTAL HEALTH SERVICES, SUBSTANCE ABUSE SERVICES, OR THE JUSTICE SYSTEM; THAT THE BOARD SHALL BE SUBJECT TO SPECIFIC ACCOUNTABILITY AND TRANSPARENCY REQUIREMENTS; AND REQUIRING THAT REVENUES FROM THESE INCREASED TAXES SHALL BE COLLECTED AND SPENT WITHOUT REGARD TO ANY EXPENDITURE, REVENUE-RAISING, OR OTHER LIMITATION CONTAINED WITHIN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

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

Section 1. Account Number 97000-282110 of the Fund Plan, Section 20-18, D.R.M.C., concerning apportionment of the sales, use and lodger's tax, shall be amended by the addition of a new subsection (i), to read as follows (with existing subsection (i) being re-designated as subsection (j)):

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: (i) Monthly, (1) allocation apportionment and transfer of only those revenues raised at the rate of .25 percent of gross taxable sales from sales and use taxes levied to the Caring for Denver Fund in the General Government Special Revenue Fund.

Section 2. Subsection (a) of section 53-27, D.R.M.C., concerning sales taxes, shall be amended to read as follows:

(a) *Tax rates.* A tax of three and ~~sixty-five~~ninety one-hundredths (3.~~65~~90) percent is imposed and levied upon all taxable sales of commodities and services except those commodities or services specified in subsection (b) of this section. In order to avoid amounts that are fractions of pennies, taxpayers shall use a rounding procedure approved by the manager when computing the tax.

On those taxable sales of commodities or services specified in subsection (b) of this section, there is levied and imposed upon all taxable sales a tax in accordance with the rates set forth in subsection (b).

Section 3. Section 53-27, D.R.M.C., concerning sales taxes shall be amended by the addition of a new subsection (h) to read as follows:

(h) *Sales tax increment to fund the Caring for Denver Fund.* In addition to the sales tax otherwise imposed by this section, a tax of twenty-five one-hundredths of one percent (.25) shall be paid on all taxable sales of commodities or services, except on commodities or services specified in subsection (b) of this section, beginning January 1, 2019. The revenue from such additional tax shall be used for the sole purpose of funding the Caring for Denver Fund pursuant to article XIV of chapter 24.

Section 4. Subsection (a) of section 53-28, D.R.M.C., concerning sales taxes, shall be amended to read as follows:

Sec. 53-28. Retailer responsible for payment of tax. (a) *Amount.* Every retailer shall, irrespective of other provisions of this article, be liable and responsible for the payment of an amount equivalent to three and ~~sixty-five-ninety~~ sixty-five-ninety one-hundredths (3.6590) percent of the retailer's gross taxable sales of commodities or services specified in this article, except: (1) Aviation and railway fuel, as to which the rate of four cents (\$0.04) for each gallon purchased shall apply; (2) Automotive vehicles when they are for any term of thirty (30) days or less hired for use, rented, leased or transferred under a grant of a license to use, as to which a rate of taxation as set forth in section 53-27(b)(2) shall apply; and (3) Food and beverages not exempted from taxation under section 53-26(8) of this article, as to which the rate of four (4) percent shall apply, and for each of which respective rates aforesaid the retailer shall be liable for an equivalent amount; and every retailer shall on or before the twentieth day of each month pay over such amount and make a return to the manager, less one-half of one (.5) percent of such amount as a discount allowable for prompt payment. If any vendor is delinquent in remitting the tax levied by this article, other than in unusual circumstances shown to the satisfaction of the manager, the vendor shall not be allowed to retain any discount allowable for prompt payment, and the full amount shall be remitted to the manager by any such delinquent vendor, together with any other applicable penalty or interest payable under the terms of this article.

Section 5. Subsection (a) of section 53-98, D.R.M.C., concerning use taxes, shall be amended to read as follows:

(a) *Tax rates.* A tax of three and ~~sixty-five-ninety~~ sixty-five-ninety one-hundredths (3.6590) percent is imposed and levied and there shall be collected and paid a tax upon the exercise of the privilege of storing, using, distributing or consuming in the city a service subject to the provisions of this article or any item of tangible personal property purchased at retail, or deemed to be purchased at retail, except those commodities or services specified in subsection (b) of this section. In order to avoid amounts that are fractions of pennies, taxpayers shall use a rounding procedure approved by the manager when computing the tax. On those taxable uses, consumptions, distributions and storages of commodities or services specified in subsection (b) of this section, there is levied and imposed upon the privilege of storing, using, distributing or consuming in the city a tax in accordance with the rates set forth therein.

Section 6. Section 53-98, D.R.M.C., concerning use taxes shall be amended by the addition of a new subsection (l) to read as follows:

(l) *Use tax increment to fund the Caring for Denver Fund.* In addition to the use tax otherwise imposed by this section, a tax of twenty-five one-hundredths of one percent (.25) shall be paid on all taxable uses, consumptions, distributions, and storages of commodities and services, except on commodities and services specified in subsection (b) of this section, beginning January 1, 2019. The revenue from such additional tax shall

be used for the sole purpose of funding the Caring for Denver Fund pursuant to article XIV of chapter 24.

Section 7. Subsection (a) of section 53-99, D.R.M.C., concerning collection of use taxes, shall be amended to read as follows:

Sec. 53-99. Retailer responsible for payment of tax. (a) *Amount.* Every retailer shall, irrespective of other provisions of this article, be liable and responsible for the payment of an amount equivalent to three and ~~sixty-five~~ninety one-hundredths (3.~~65~~90) percent of gross taxable sales made by him of services and tangible personal property specified in this article, except: (1) aviation and railway fuel, as to which the rate of four cents (\$0.04) for each gallon purchased shall apply, (2) automotive vehicles when they are for any term of thirty (30) days or less hired for use, rented, leased or transferred under a grant of a license to use, as to which a rate of taxation as set forth in section 53-98(b) (2) shall apply, and (3) food and beverages not exempted from taxation under section 53-26(8) of the city retail sales tax article, as to which the rate of four (4) percent shall apply, and for each of which respective rates aforesaid the retailer shall be liable for an equivalent amount; and every retailer shall on or before the twentieth day of each month pay over such amount and make a return to the manager, less one-half of one (.5) percent of such amount as a discount allowable for prompt payment. If any vendor is delinquent in remitting the tax levied by this article, other than in unusual circumstances shown to the satisfaction of the manager, the vendor shall not be allowed to retain any discount allowable for prompt payment, and the full amount shall be remitted to the manager by any such delinquent vendor, together with any other applicable penalty or interest payable under the terms of this article.

Section 8. Chapter 24, D.R.M.C., concerning Health and Sanitation, shall be amended by the addition of a new Article XIV, to read as follows:

ARTICLE XIV. CARING FOR DENVER FUND

Sec. 24-700. Legislative Intent. The purpose of this Article XIV is to provide for the governance and administration of the dedicated sales and use tax increase approved by the voters on November 6, 2018, and as provided in sections 53-27 (h) and 53-98 (l) of this code (hereinafter referred to as the “Caring for Denver tax”), for the purpose of funding the Caring for Denver Fund in order to increase mental health and substance use disorder prevention, treatment, recovery, and harm reduction services available in Denver. The people hereby determine that the expenditure of the Caring for Denver tax and the establishment of the Caring for Denver Fund serve important public and municipal purposes, and are matters of local concern for which the citizens of Denver enjoy the full right of self-government. The Caring for Denver Fund shall supplement, rather than supplant the total of City, County, State and Federal annual funding for

mental health and substance use disorder services collected and administered by the City and County of Denver as of June 30, 2018.

Sec. 24-701. Expenditures of Caring for Denver tax.

(a) Expenditures of the Caring for Denver tax shall be made through the Denver Department of Public Health and Environment (“Department”). The Department shall contract with a spending agency for this purpose that meets the criteria and requirements of subsection (b) of this section.

(b) The spending agency for this purpose shall be a non-profit corporation that, in serving as an instrumentality of the Department, meets the following criteria and requirements:

(1) The non-profit corporation shall be duly incorporated and in good standing under the Colorado Revised Nonprofit Corporation Act and shall, as a spending agency, possess the power to commit, through grants of tax revenue, monies collected as the Caring for Denver tax. The non-profit corporation shall have the authority to contract in its own name and to hire its own employees who shall not be considered officers or employees of the city.

(2) The non-profit corporation's board of directors shall be composed of thirteen (13) members appointed in the following fashion:

The mayor of Denver shall appoint the following members:

1. The executive director of Denver’s Department of Public Health and Environment or his or her designee;
2. The executive director of Denver’s Department of Human Services or his or her designee;
3. The Denver City Attorney or his or her designee;
4. The chief executive officer of the community mental health center in Denver, as designated by the Colorado Department of Human Services Office of Behavioral Health, or his or her designee;
5. The chief executive officer of the Denver Health and Hospital Authority or his or her designee;
6. The Denver District Attorney or his or her designee.

The Denver District Attorney shall appoint the following members:

7. A representative of the juvenile justice system;
8. A person who has experienced a mental health need or substance use disorder who has been involved in the criminal justice system or a person

who has advocated for those with mental health needs or substance use disorders in the criminal justice system.

The president of the Denver City Council shall appoint the following members:

9. A person who has experienced, or is in recovery from, a mental health or substance use disorder.
10. A mental health or substance use treatment provider;
11. A person with expertise in child and youth mental health services;
12. A representative of commercial business interests in the City & County of Denver with an interest in mental health or substance use disorders;
13. A person with experience addressing the mental and/or substance use needs of underserved populations.

The initial appointments made by the Mayor shall have a first term of one year, the appointments of the Denver District Attorney shall have a first term of two years. The appointments of the president of the Denver City Council shall have staggered terms, two with a first term of one year, two with a first term of two years and one with a first term of three years. All subsequent terms shall be three years. Members of the board may serve no more than three terms in total. If an appointment remains vacant for more than sixty days, the remainder of the board, by a majority vote, shall fill the vacancy with a person that will closely represent the interests of the vacant member's seat; provided, however, that before the nonprofit corporation has been formed and, if necessary, before its status as a tax exempt entity has been approved by the Internal Revenue Service ("IRS"), it shall be sufficient that a majority of the board members has been appointed and that majority acts to achieve the aforementioned formation and IRS approval. Nothing in this section shall prevent the board from removing a member as authorized by its bylaws. City officials designated above serve at the pleasure of the mayor.

(3) Meetings of the board shall be treated as public meetings subject to the provisions of Chapter 2, Article III, D.R.M.C. Information shared at the board meetings of the non-profit corporation and final grant awards shall be treated as public records and subject to the provisions of the Colorado Open Records Act, §§ 24-72-201, et seq., C.R.S., as amended.

(4) Commencing January 1, 2020, not less than once annually and no later than the end of the third month of the city's fiscal year, the non-profit corporation shall report to the mayor, the city council, the auditor, and the public the following information from the prior fiscal year:

- (i) Audited financial statements for the non-profit corporation, conducted by an independent auditor, including full reports on expenditures for the

prior fiscal year and anticipated budgets and work plans for the ensuing fiscal year.

(ii) An annual report that sets forth, at a minimum, a strategic plan progress evaluation, the grants made in each of the funding areas identified, the names of the grantees, the dollar amounts granted to each grantee, the boards of directors and officers of each grantee, and the purposes and proposed impacts of those grants.

(5) Once every five years, the City may issue a request for proposal to solicit a non-profit corporation that may provide spending agency services, in the most efficient and effective manner, to meet the interests and requirements of Article XIV.

(6) In administering the Caring for Denver Fund, or expending any monies derived from the Caring for Denver tax, the non-profit corporation shall not discriminate against any person on the basis of any class listed in Sec. 28-91(b).

(7) The non-profit corporation will share its policy on conflicts of interest with the City and the public. Persons affected by the conflict of interest policy are required to abide by the City and County of Denver's conflict of interest standards as defined in Sec. 2-61, D.R.M.C. No board members shall personally benefit from any grant made by the non-profit corporation for the provision of services. A person who is employed by or serves in a governmental department, division, or agency that provides such services will not be deemed to have "personally benefited" if his or her agency receives monies from the Caring for Denver Fund.

(8) The board of the non-profit corporation shall develop a strategic plan to determine funding priorities. The strategic plan shall be updated no less than every three years and shall include public input into the use of the Caring for Denver Fund.

(9) The Caring for Denver Fund shall supplement rather than supplant the total of City, County, State and Federal annual funding for mental health and substance use disorder services collected and administered by the City and County of Denver as of June 30, 2018.

Sec 24-702. Spending limitations to be included in contract. Any contract between the city and the non-profit corporation for disbursement of the Caring for Denver tax revenues shall include the following provisions and requirements:

(1) The Caring for Denver tax revenue in any year shall be awarded for the following purposes, for expenditure by qualifying grant recipients serving people in the City and County of Denver:

- (i) Mental health services and treatment for children and adults;
- (ii) Suicide prevention programs;
- (iii) Opioid and substance use disorder prevention, treatment and recovery programs;
- (iv) Housing and case management services to reduce homelessness, improve long-term recovery, and reduce the costly use of jails and emergency rooms for those with mental health and substance use disorder needs.

(2) At least 10% of Caring for Denver tax revenue in any year shall be directed to the City and County of Denver, as decided by the board of the non-profit corporation, for the following purposes:

- (i) Funding for a facility and staffing to create alternatives to jail for people with mental health and/or substance use disorder needs.
- (ii) Fully funding a co-responder program for mental health experts to ride along with Denver police.
- (iii) Training for first responders, including paramedics and fire response, on how to properly assess and handle people with mental health and/or substance use disorder needs.

(3) In addition to the 10% specified in Sec 24-702(2), for the first two years after this ordinance becomes effective, an additional 10% of Caring for Denver tax revenue shall be directed to the City and County of Denver for developing, either by creating or expanding, a facility that creates alternatives to jail for people with mental health and/or substance use disorder needs. “Developing,” in this case, may include, but is not limited to, planning, design, purchase of real estate, renovation, and or capital construction related to the establishment of a facility that creates alternatives to jail for people with mental health and/or substance use disorder needs.

(4) No more than 5% of the Caring for Denver tax revenue in any year shall be spent on administrative expenses. For purposes of this limitation, “administrative expenses” shall mean salaries and office expenses related to any staff or employees of the non-profit corporation; any expenses reimbursed to members of the board of directors; expenses related to conducting mental health and substance use disorder needs assessments for people in the City and County of Denver; expenses related to program evaluation, development and updating of the strategic

plan, and annual report; routine business expenses such as insurance, accounting, an independent audit, and legal expenses; and any similar overhead expenses incurred by the non-profit corporation. Upon agreement between the City and County of Denver and the non-profit corporation, a portion of this 5% may be used to offset reasonable administrative expenses incurred by the City and County of Denver related to oversight and monitoring of the contract. The non-profit corporation may seek additional funding streams, such as gifts, grants, or donations, to pay for additional administrative expenses. Such non-tax funds will not reduce the 5% of Caring for Denver tax revenue that the non-profit corporation may use for administrative expenses.

Section 9. This ordinance shall be effective January 1, 2019.