

1 **BY AUTHORITY**

2 ORDINANCE NO. _____
3 SERIES OF 2017

COUNCIL BILL NO. CB17-1125
COMMITTEE OF REFERENCE:
4 Safety, Housing, Education, and Homelessness

5 **A BILL**

6 **For an ordinance amending Article IX of Chapter 24 and Article I of Chapter 38**
7 **of the Denver Revised Municipal Code to prohibit smoking of tobacco and**
8 **marijuana products on the 16th Street Pedestrian and Transit Mall and to regulate**
9 **smoking of tobacco and marijuana products in certain public places.**

10 **WHEREAS**, tobacco use is the single largest preventable cause of disease and death in the
11 United States; and

12 **WHEREAS**, the use of e-cigarettes and hookah products by middle school and high school
13 students has increased from 2011 to 2016; and

14 **WHEREAS**, reducing involuntary exposure to environmental tobacco and marijuana smoke
15 and vapors in the city's most highly concentrated pedestrian environment will benefit public health;
16 and

17 **WHEREAS**, prohibiting smoking along the 16th Street Pedestrian and Transit Mall will reduce
18 the conspicuousness of tobacco and marijuana products in the eyes of youth who frequent the mall;

19 **NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF**
20 **DENVER:**

21 **Section 1.** Section 24-304, D.R.M.C., shall be amended by deleting the language stricken
22 and adding new subsections (b)(5) and (b)(6) underlined, to read as follows:

23 **Sec. 24-304. - Smoking in public places.**

24 Smoking in public places is regulated as follows:

25 (b) In outdoor spaces smoking shall be allowed except as follows:

- 26 (1) Within the exterior walls/fences of an open-air theater, smoking is prohibited in
27 open seating areas, food/drink concession areas and related lines leading
28 thereto, restrooms and amphitheater aisles and allowed elsewhere within the
29 facility only in designated smoking areas established by the owner, operator or
30 person in charge, in a manner consistent with section 24-307(a);
- 31 (2) During special events open to the public and held within the exterior
32 walls/fences of a botanic garden or zoo, smoking is prohibited except in
33 smoking areas established therein by the facility owner, operator or person in
34 charge, in places apart from visitor viewing areas and walkways, in a manner

1 consistent with section 24-307(a);

- 2
- 3 (3) Within the exterior walls/fences of a sport stadium, smoking is prohibited in
- 4 open seating areas, aisles, interior ramps or stairs leading to seating areas,
- 5 food/drink concession areas and the area of lines leading thereto and allowed
- 6 elsewhere within the facility only in designated smoking areas established by
- 7 the owner, operator or person in charge, in a manner consistent with section
- 8 24-307(a); ~~and~~
- 9
- 10 (4) Within the exterior walls/fences of tennis courts and swimming pools, smoking
- 11 is prohibited;
- 12
- 13 (5) On certain public premises adjoining hospital properties, as prohibited by
- 14 section 38-8; and
- 15
- 16 (6) On the 16th Street Pedestrian and Transit Mall, as prohibited by section 38-9.
- 17

18 **Section 2.** Article I of Chapter 38, D.R.M.C. shall be amended by adding a new section

19 38-9, to read as follows:

20

21 **Sec. 38-9. Smoking on the 16th Street Pedestrian and Transit Mall prohibited.**

22

- 23 (a) *Definitions.* For the purposes of this section, the following words and phrases have
- 24 the meanings set forth below:
- 25
- 26 (1) *Electronic smoking device* means any electronic oral device such as one
- 27 composed of a heating element, battery, or electronic circuit which provides a
- 28 vapor of nicotine or marijuana, vapor of a solution including nicotine or
- 29 marijuana, or aerosol of solution including nicotine or marijuana, or any other
- 30 substance for inhalation. This term shall include every variation and type of
- 31 such devices whether they are manufactured, distributed, marketed or sold as
- 32 an electronic cigarette, an electronic cigar, an electronic cigarillo, and
- 33 electronic or vape pen, an electronic pipe, an electronic hookah, or any other
- 34 product name or descriptor. The term “electronic smoking device” does not
- 35 include any device specifically approved by the United State Food and Drug
- 36 Administration for use in reducing, treating or eliminating nicotine or tobacco
- 37 dependence, or for any other medical purpose, when such device is being
- 38 used for such purpose.
- 39
- 40 (2) *Marijuana* means all parts of the plant of the genus cannabis, the seeds
- 41 thereof, the resin extracted from any part of the plant, and every compound,
- 42 manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or
- 43 its resin, including marijuana concentrate.
- 44
- 45 (3) *16th Street Pedestrian and Transit Mall* shall mean the portion of 16th Street
- 46 and an area north or south of 16th Street within fifty (50) feet of 16th Street
- 47 between the west curb line of Broadway and the southeasterly curb line of
- 48 Chestnut Street, and shall include any area on the Mall that has been
- 49 permitted for vending, outdoor dining areas, and special events.

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(4) *Smoke or smoking* means the burning of a lighted cigarette, cigar, pipe, or any other matter or substance that contains tobacco or marijuana, or the use of an electronic smoking device.

(5) *Tobacco* means cigarettes, cigars, cheroots, stogies, and periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff and snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a cigarette, pipe, or otherwise, or both for chewing and smoking. "Tobacco" also includes cloves and any other plant matter or product that is packaged for smoking.

(b) *Prohibition.* It shall be unlawful for any person to smoke on the 16th Street Pedestrian and Transit Mall.

(c) *Penalty.* Any violation of subsection (b) of this section is hereby declared to be a non-criminal offense and, upon an admission or finding or judgment of guilt or liability by default or otherwise, the violator shall be subject to a fine not to exceed one hundred dollars (\$100.00).

Section 3. This ordinance shall be effective as of December 1, 2017.

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1 COMMITTEE APPROVAL DATE: October 11, 2017

2 MAYOR-COUNCIL DATE: October 17, 2017

3 PASSED BY THE COUNCIL: _____

4 _____ - PRESIDENT

5 APPROVED: _____ - MAYOR _____

6 ATTEST: _____ - CLERK AND RECORDER,
7 EX-OFFICIO CLERK OF THE
8 CITY AND COUNTY OF DENVER

9 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____; _____

10 PREPARED BY: Jessica Brody, Assistant City Attorney DATE: October 19, 2017

11 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
12 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
13 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §
14 3.2.6 of the Charter.

15 Kristin M. Bronson, City Attorney

16 BY: _____, Assistant City Attorney DATE: _____