

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2014

COUNCIL BILL NO. CB13-0568
COMMITTEE OF REFERENCE:
HEALTH, SAFETY, EDUCATION, & SERVICES

A BILL

For an Ordinance amending Section 24-5 of Article I of Chapter 24, Health and Sanitation by adding programs for which violators may be subject to administrative penalties, moving certain provisions relating to enforcement to a new section 24-24 (entitled failure to comply with a violation notice, order, or rules and regulations), and creating new provision regarding variance application fee.

WHEREAS, City Council finds that enhancing the Department’s enforcement powers with respect to the general health and cleanliness of the City would promote the welfare of Denver citizens and would be protective of public health; and

WHEREAS, City Council finds that revisions to the existing ordinance are necessary to facilitate uniformity with the use of administrative penalties for violations of all Chapters of the D.R.M.C. that are enforced by the Department; and

WHEREAS, City Council desires the City to provide for the assessment of administrative penalties as a prompt and economical alternative mechanism for remedying violations of public health regulations enforced by the Department; and

WHEREAS, City Council finds that it is appropriate that the fee for variances from the ordinances administered and enforced by the Department and from rules and regulations adopted pursuant to those ordinances, should help to offset the Department’s costs of reviewing and responding to variance requests and of monitoring compliance with variances the board grants.

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

Section 1. Section 24-5 (Administrative assessment of civil penalties) of the Denver Revised Municipal Code shall be amended by adding the language underlined, and deleting the language stricken, to read as follows:

Sec. 24-5. – Administrative assessment of civil penalties.

~~(a)~~ Any person who violates any provision of chapter 8 (animals), excluding the provisions of sections 8-48 (damaging property), 8-51 (dog attack or bite), 8-52 (dangerous dogs), 8-55 (pit bulls prohibited), 8-131(a) (cruelty to animals prohibited), 8-134 (abandonment), and 8-135 (keeping place for fighting animals); chapter 11 (child care); chapter 17 (emergency

1 vehicles); article x (body art) of chapter 24 (health and sanitation); chapter 26 (boarding
2 homes, personal care boarding homes, and nongovernmental residential facilities for the
3 treatment or supervision of offenders); article II of chapter 27 (housing code);; chapter 33
4 (lodging), chapter 35 (mobile homes and trailers); ~~or~~ chapter 36 (noise control);; article I of
5 chapter 37 (health nuisances); or chapter 51 (pools) shall also be is also subject to a civil
6 penalty of not more than nine hundred and ninety-nine dollars (\$999.00) per violation.

7 ~~(b) Any person who violates any order issued by the manager of the department of~~
8 ~~environmental health shall also be subject to a civil penalty of not more than nine hundred~~
9 ~~and ninety-nine dollars (\$999.00) per violation.~~

10 ~~(c) Each day a violation exists or continues shall constitute a separate and distinct violation.~~

11 ~~(d) Enforcement actions are intended to be cumulative in nature. The city may pursue one (1)~~
12 ~~or more civil, criminal, and administrative actions, fees, fines, sentences, penalties,~~
13 ~~judgments, and remedies and may do so simultaneously or in succession.~~

14 **Section 2.** Section 24-6 (Fees) is hereby enacted to read and be read as follows:

15 **Section 24-6. Fees.**

16 To help defray the cost of processing and responding to appeals and applications for
17 variance and the cost of monitoring compliance with variances that the board grants, the
18 board may, by rule and regulation, adopt fees for appeals to the board; applications for
19 variance; and for monitoring compliance with any variance the board grants. Fees are not
20 required for an application initiated by the City.

21 **Section 2.** Section 24-24 (Failure to comply with violation notice, order, or rules and
22 regulations) is hereby enacted to read and be read as follows:

23 **Sec. 24-24. Failure to comply with a violation notice, order, or rule and regulation.**

24 (a) It is unlawful for any person to fail to comply with any violation notice or any order issued by
25 the manager, including, without limitation, those issued under the manager's general
26 powers and duties in section 24-16 of the code.

27 (b) It is unlawful for any person to violate a rule or regulation adopted by the board.

28 (c) Any person who fails to comply with any violation notice, order, rule or regulation may also
29 be subject to a noncriminal civil penalty of not more than nine hundred and ninety-nine
30 dollars (\$999.00) per violation or the specific civil or administrative penalty amounts set forth
31 in the chapter under which the violation was cited.

32 (d) Enforcement actions are intended to be cumulative in nature. The city may pursue one (1)
33 or more civil, criminal, and administrative actions, fees, fines, sentences, penalties,
34 judgments, and remedies and may do so simultaneously or in succession.

35 (e) Each day a violation exists or continues is a separate violation.

1 COMMITTEE APPROVAL DATE: June 19, 2014
2 MAYOR-COUNCIL DATE: June 24, 2014
3 PASSED BY THE COUNCIL: _____, 2014
4 _____ - PRESIDENT

5 APPROVED: _____ - MAYOR _____, 2014
6 ATTEST: _____ - CLERK AND RECORDER,
7 EX-OFFICIO CLERK OF THE
8 CITY AND COUNTY OF DENVER

9 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____, 2014; _____, 2014

10 PREPARED BY: Katherine L. Wilmoth, Assistant City Attorney DATE: July 17, 2014
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 D. Scott Martinez, Denver City Attorney

16 BY: _____, Assistant City Attorney DATE: _____, 2014