

1 **BY AUTHORITY**

2 ORDINANCE NO. \_\_\_\_\_

COUNCIL BILL NO. CB17-1125

3 SERIES OF 2017

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 16<sup>th</sup> 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 with benefit public health;  
16 and  
17

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

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

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

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

25 Smoking in public places is regulated as follows:

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

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

1 smoking areas established therein by the facility owner, operator or person in  
2 charge, in places apart from visitor viewing areas and walkways, in a manner  
3 consistent with section 24-307(a);  
4

5 (3) Within the exterior walls/fences of a sport stadium, smoking is prohibited in  
6 open seating areas, aisles, interior ramps or stairs leading to seating areas,  
7 food/drink concession areas and the area of lines leading thereto and allowed  
8 elsewhere within the facility only in designated smoking areas established by  
9 the owner, operator or person in charge, in a manner consistent with section  
10 24-307(a); ~~and~~

11  
12 (4) Within the exterior walls/fences of tennis courts and swimming pools, smoking  
13 is prohibited;

14  
15 (5) On certain public premises adjoining hospital properties, as prohibited by  
16 section 38-8; and

17  
18 (6) On the 16<sup>th</sup> Street Pedestrian and Transit Mall, as prohibited by section 38-9.  
19

20 **Section 2.** Article I of Chapter 38, D.R.M.C. shall be amended by adding a new section  
21 38-9, to read as follows:

22  
23 **Sec. 38-9. Smoking on the 16<sup>th</sup> Street Pedestrian and Transit Mall prohibited.**

24  
25 (a) *Definitions.* For the purposes of this section, the following words and phrases have  
26 the meanings set forth below:

27  
28 (1) *Electronic smoking device* means any electronic oral device such as one  
29 composed of a heating element, battery, or electronic circuit which provides a  
30 vapor of nicotine or marijuana, vapor of a solution including nicotine or  
31 marijuana, or aerosol of solution including nicotine or marijuana, or any other  
32 substance for inhalation. This term shall include every variation and type of  
33 such devices whether they are manufactured, distributed, marketed or sold as  
34 an electronic cigarette, an electronic cigar, an electronic cigarillo, and  
35 electronic or vape pen, an electronic pipe, an electronic hookah, or any other  
36 product name or descriptor. The term "electronic smoking device" does not  
37 include any device specifically approved by the United State Food and Drug  
38 Administration for use in reducing, treating or eliminating nicotine or tobacco  
39 dependence, or for any other medical purpose, when such device is being  
40 used for such purpose.

41  
42 (2) *Marijuana* means all parts of the plant of the genus cannabis, the seeds  
43 thereof, the resin extracted from any part of the plant, and every compound,  
44 manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or  
45 its resin, including marijuana concentrate.

46  
47 (3) *16<sup>th</sup> Street Pedestrian and Transit Mall* shall mean the portion of 16<sup>th</sup> Street  
48 and an area north or south of 16<sup>th</sup> Street within fifty (50) feet of 16<sup>th</sup> Street

1 between the west curb line of Broadway and the southeasterly curb line of  
2 Chestnut Street, and shall include any area on the Mall that has been  
3 permitted for vending, outdoor dining areas, and special events.  
4

5 (4) *Smoke or smoking* means the burning of a lighted cigarette, cigar, pipe, or any  
6 other matter or substance that contains tobacco or marijuana, or the use of an  
7 electronic smoking device.  
8

9 (5) *Tobacco* means cigarettes, cigars, cheroots, stogies, and periques;  
10 granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco;  
11 snuff and snuff flour; cavendish; plug and twist tobacco; fine-cut and other  
12 chewing tobacco; shorts, refuse scraps, clippings, cuttings, and sweepings of  
13 tobacco; and other kinds and forms of tobacco, prepared in such manner as to  
14 be suitable for chewing or for smoking in a cigarette, pipe, or otherwise, or  
15 both for chewing and smoking. "Tobacco" also includes cloves and any other  
16 plant matter or product that is packaged for smoking.  
17

18 (b) *Prohibition.* It shall be unlawful for any person to smoke on the 16<sup>th</sup> Street Pedestrian  
19 and Transit Mall.  
20

21 (c) *Penalty.* Any violation of subsection (a) of this section is hereby declared to be a non-  
22 criminal offense and, upon an admission or finding or judgment of guilt or liability by default  
23 or otherwise, the violator shall be subject to a fine not to exceed one hundred dollars  
24 (\$100.00).  
25

26 COMMITTEE APPROVAL DATE: \_\_\_\_\_, 2017

27 MAYOR-COUNCIL DATE: \_\_\_\_\_, 2017

28 PASSED BY THE COUNCIL: \_\_\_\_\_, 2017

29 \_\_\_\_\_ - PRESIDENT

30 APPROVED: \_\_\_\_\_ - MAYOR \_\_\_\_\_, 2017

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

34 NOTICE PUBLISHED IN THE DAILY JOURNAL: \_\_\_\_\_, 2017; \_\_\_\_\_, 2017

35 PREPARED BY: Jessica Brody, Assistant City Attorney DATE: \_\_\_\_\_

36 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of  
37 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed  
38 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §  
39 3.2.6 of the Charter.

40 Kristin M. Bronson, City Attorney

41 BY: \_\_\_\_\_, Assistant City Attorney DATE: \_\_\_\_\_, 2017