

1 BY AUTHORITY

2 ORDINANCE NO. 436

COUNCIL BILL NO. 374

3 SERIES OF 2008

COMMITTEE OF REFERENCE:

4 **AS AMENDED 8-11-08**

5 NEIGHBORHOOD, COMMUNITY, & BUSINESS REVITALIZATION

6 **A BILL**

7 **For an ordinance amending Chapter 38, Article I, of the Revised Municipal**  
8 **Code pertaining to Offenses, Miscellaneous Provisions, In General by adding**  
9 **a prohibition against smoking on certain public premises adjoining hospitals.**

10 **WHEREAS**, secondhand smoke (also known as environmental tobacco smoke) is a  
11 complex mixture of thousands of chemicals that are emitted from burning tobacco;

12 **WHEREAS**, secondhand smoke contains at least 250 chemicals known to be toxic or  
13 carcinogenic (cancer-causing);

14 **WHEREAS**, the United States Environmental Protection Agency (EPA) has classified  
15 environmental tobacco smoke as a Group A carcinogen under EPA's carcinogen assessment  
16 guidelines, which classification is reserved for those compounds or mixtures that have been  
17 shown to cause cancer in humans;

18 **WHEREAS**, breathing secondhand smoke for a short time can have immediate adverse  
19 effects on the cardiovascular system, interfering with the normal functioning of the heart, blood,  
20 and vascular systems in ways that increase the risk of heart attack;

21 **WHEREAS**, persons who already have heart disease are at especially high risk of  
22 suffering adverse effects from breathing secondhand smoke and should take special precautions  
23 to avoid brief exposure;

24 **WHEREAS**, secondhand smoke contains many chemicals that can quickly irritate and  
25 damage the lining of the airways and brief exposure can trigger respiratory symptoms, including  
26 cough, phlegm, wheezing, and breathlessness;

27 **WHEREAS**, persons who have asthma or other respiratory conditions are at especially  
28 high risk for being affected by secondhand smoke and should take special precautions to avoid  
29 secondhand smoke exposure;

30 **WHEREAS**, outdoor secondhand tobacco smoke may have an acute effect on  
31 susceptible populations;

1           **WHEREAS**, short-term outdoor secondhand tobacco smoke exposure could be a danger  
2 to high-risk persons; and

3           **WHEREAS**, hospitals treat people with such diseases and injuries and are dedicated to  
4 providing a safe, clean, and healthy environment and to promoting health, wellness, and  
5 prevention.

6           **BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

7           **Section 1.** Chapter 38 (Offenses, Miscellaneous Provision), Article I (In General) of the  
8 Denver Revised Municipal Code, is amended by the addition of the following section:

9           **“Section 38-8 Smoking Prohibited within Certain Public Premises Adjoining**  
10 **Hospital Properties.**

11           **(a) Definitions.** For the purposes of this section, the following words and phrases  
12 have the meaning set forth below:

13                 **(1) *Flow line*** means the face of the curb and gutter, or if no curb and gutter, the  
14 edge of the pavement.

15                 **(2) *Hospital*** has the meaning set forth in § 59-2(141) of this code.

16           **(b) Prohibition.**

17                 **(1)** It shall be unlawful to smoke or possess burning tobacco, including  
18 cigarettes, cigars, pipes, tobacco smoking devices, or any other lighted smoking  
19 equipment, on the public right-of-way (including sidewalks, tree lawns, and alleys)  
20 adjoining hospitals and other hospital-owned properties or properties leased by any  
21 hospital, up to the closest flow line. This prohibition does not apply to persons in moving  
22 vehicles in alleys.

23                 **(c)** Hospitals shall post “No Smoking” or “Smoke Free” signs, or the international  
24 “No Smoking” symbol (consisting of a pictorial representation of a burning cigarette  
25 enclosed in a red circle with a red bar across it) or both in conspicuous places on their  
26 property (ies) sufficient to provide public notice of this smoking prohibition. Failure to  
27 post signage under this section is not punishable under this code.

28                 **(d)** Notwithstanding the hospitals’ responsibility to post signs, the presence or  
29 absence of signs shall not be a defense to a violation of any provision of this section. A  
30 person found to be in violation of this section 38-8(b)(1) is subject to a fine up to three  
31 hundred dollars (\$300) per violation.”

32           **Section 2.** This ordinance becomes effective on November 20, 2008.

1 Section 3. This ordinance shall be repealed effective November 20, 2010.

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3  
4 COMMITTEE APPROVAL DATE: July 8, 2008.

5 MAYOR-COUNCIL DATE: July 15, 2008.

6 PASSED BY THE COUNCIL August 18 2008

7 [Signature] - PRESIDENT

8 APPROVED: [Signature] - MAYOR August 19, 2008

9 ATTEST: [Signature] - CLERK AND RECORDER,  
10 EX-OFFICIO CLERK OF THE  
11 CITY AND COUNTY OF DENVER

12 NOTICE PUBLISHED IN THE DAILY JOURNAL July 25, 2008  
Aug 15, 2008; Aug 22, 2008

13 PREPARED BY: Katherine L. Wilmoth - ASSISTANT CITY ATTORNEY - July 17, 2008

14 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of  
15 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed  
16 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to  
17 §3.2.6 of the Charter.

18  
19 DAVID R. FINE, City Attorney, City and County of Denver

20 BY: [Signature], Asst City Attorney

21 DATE: 11 Aug, 2008

