

1 **BY AUTHORITY**

2 ORDINANCE NO. _____

3 SERIES OF 2021

COUNCIL BILL NO. CB21-

COMMITTEE OF REFERENCE:

[COMMITTEE NAME]

5 **A BILL**

6 **For an ordinance amending the Revised Municipal Code of the City and County of**
7 **Denver to provide an additional exemption from proximity restrictions for**
8 **currently operating retail tobacco stores and waive first renewal fees for retail**
9 **tobacco stores that received a license prior to July 1, 2020.**

10 **WHEREAS**, the emergence of the COVID 19 pandemic in Denver led to an emergency
11 declaration for the City on March 12, 2020; and

12 **WHEREAS**, most retail tobacco establishments significantly modified their standard business
13 operations as a result of the COVID 19 pandemic and subsequent public health orders in 2020; and

14 **WHEREAS**, most City operations supporting the procurement of a retail tobacco license were
15 delayed or significantly reduced in 2020; and

16 **WHEREAS**, due to the COVID 19 pandemic, all in-person outreach to retail tobacco
17 establishments regarding the new Retail Tobacco Store License ceased on March 12, 2020 and did
18 not resume until November 23, 2020.

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

23 **Section 1.** Chapter 24, Article XI, Division 2, of the Denver Revised Municipal Code shall
24 be amended by adding the language underlined and deleting the language stricken to read as
25 follows:

26 **“Sec. 24-422. – Grounds for denial.**

27 (a) An application for a retail tobacco store license may be denied under this division 2 if:

28 (1) The applicant, or a principal of the applicant, has received notice of any violation
29 of a federal, state, or local law related to tobacco sales, or rule or regulation adopted pursuant
30 thereto;

31 (2) The applicant fails to obtain all necessary permits, licenses, and other regulatory
32 approvals required by all state and local laws, and any rules and regulations adopted pursuant
33 thereto; or

34 (3) The applicant proposes to operate on a temporary (less than a year), pop-up, or

1 mobile basis. However, this subsection (3) shall not apply to an applicant who proposes to operate
2 a regularly scheduled tobacco trade show where tobacco products will be sold on a temporary basis.

3 (b) In addition to the grounds set forth in chapter 32 of this Code, an application for a retail
4 tobacco store license shall be denied under this division 2 if:

5 (2) This subsection (b) shall not apply to any application for a retail tobacco store
6 license submitted on or before January 1, 2021, or to an applicant who can produce to the
7 satisfaction of the director documentary or other empirical evidence that the sale of tobacco products
8 occurred at the subject location prior to January 1, 2021. Documentary or empirical evidence shall
9 include documentation that verifies the sale of tobacco at the subject location, including but not
10 limited to, tax documents, sales receipts, or other documentation deemed sufficient by the director.
11 An affidavit stating that the retail tobacco store sold tobacco products prior to January 1, 2021,
12 without additional documentation, shall not constitute sufficient documentary or empirical evidence
13 for purposes of this paragraph (2).

14 **Sec. 24-423. – Transferability of license.**

15 (a) *In general.* For the purposes of this division 2, the transfer, sale, or assignment of more
16 than fifty (50) percent ownership interest in a retail tobacco store shall be deemed a transfer of
17 ownership.

18 (b) *Ownership transferable.* A retail tobacco store license shall be transferable from one (1)
19 person to another upon approval by the director. Any application to transfer ownership of a retail
20 tobacco store license may be denied for the reasons set forth in section 24-422, except that any
21 transfer of ownership of a retail tobacco store license shall not affect any exemption that the licensed
22 premises may enjoy from the location restrictions set forth in section 24-422(b)(2).

23 (c) *Location nontransferable.* No retail tobacco store license shall be transferable from one
24 (1) location to another.”

25
26 **Section 2.** Article II of Chapter 32 of the Denver Revised Municipal Code shall be amended
27 by adding the language underlined to read as follows:

28 **“Sec. 32-107.5. – Retail tobacco stores.**

29 Retail tobacco stores shall pay the following fees:

30 (2) Annual license fee500. For any retail tobacco store licensee licensed prior to
31 July 1, 2020, the director is authorized to waive the annual license fee one time only.”

1 COMMITTEE APPROVAL DATE:
2 MAYOR-COUNCIL DATE:
3 PASSED BY THE COUNCIL: _____, 2021
4 _____ - PRESIDENT
5 APPROVED: _____ - MAYOR _____, 2021
6 ATTEST: _____ - CLERK AND RECORDER,
7 EX-OFFICIO CLERK OF THE
8 CITY AND COUNTY OF DENVER

9 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____, 2021; _____, 2021

10 PREPARED BY: Reginald Nubine, Assistant City Attorney

11 DATE: _____, 2021

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

16 Kristin Bronson, Denver City Attorney

17 BY: _____, Assistant City Attorney DATE: _____, 2021

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