

1 **BY AUTHORITY**

2 ORDINANCE NO. _____

COUNCIL BILL NO. _____

3 SERIES OF 2013

COMMITTEE OF REFERENCE:

4 HEALTH, SAFETY, EDUCATION, & SERVICES

5
6 **A BILL**

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

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

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

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

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

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

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

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

33 (a) Any person who violates any provision of chapter 8 (animals), excluding the provisions of
34 sections 8-48 (damaging property), 8-51 (dog attack or bite), 8-52 (dangerous dogs), 8-55

1 (pit bulls prohibited), 8-131(a) (cruelty to animals prohibited)), 8-134 (abandonment), and 8-
2 135 (keeping place for fighting animals); chapter 11 (child care); chapter 17 (emergency
3 vehicles); article x (body art) of chapter 24 (health and sanitation); chapter 26 (boarding
4 homes, personal care boarding homes, and nongovernmental residential facilities for the
5 treatment or supervision of offenders); article II of chapter 27 (housing code); chapter 33
6 (lodging), chapter 35 (mobile homes and trailers); ~~or~~ chapter 36 (noise control); article I of
7 chapter 37 (health nuisances); or chapter 51 (pools) shall also be is also subject to a civil
8 penalty of not more than nine hundred and ninety-nine dollars (\$999.00) per violation.

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

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

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

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

17 **Section 24-6. Fees.**

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

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

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

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

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

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

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

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

5 COMMITTEE APPROVAL DATE:

6 MAYOR-COUNCIL DATE:

7 PASSED BY THE COUNCIL: _____, 2013

8 _____ - PRESIDENT

9 APPROVED: _____ - MAYOR _____, 2013

10 ATTEST: _____ - CLERK AND RECORDER,
11 EX-OFFICIO CLERK OF THE
12 CITY AND COUNTY OF DENVER

13 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____, 2013; _____, 2013

14 PREPARED BY: Katherine L. Wilmoth, Assistant City Attorney DATE: _____, 2013

15 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
16 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
17 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §
18 3.2.6 of the Charter.

19 Douglas J. Friednash, Denver City Attorney

20 BY: _____, Assistant City Attorney DATE: _____, 2013