

1 **BY AUTHORITY**

2 ORDINANCE NO. _____
3 SERIES OF 2015

COUNCIL BILL NO. CB15-0268
COMMITTEE OF REFERENCE:
Safety and Well-being

5 **A BILL**

6 **For an ordinance amending Division 3 of Article I of Chapter 24 of the Revised**
7 **Municipal Code of the City and County of Denver regarding the sale of tobacco**
8 **products.**

9
10 **WHEREAS**, tobacco product manufacturers have brought to market new and novel
11 products in recent years; and

12 **WHEREAS**, United States Supreme Court case law has clarified the Constitutionality of
13 restrictions on outdoor advertising and retail advertising of tobacco products.

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

16 **Section 1.** That Section 24-11 of Division 3, Article I of Chapter 24 of the Revised
17 Municipal Code shall be amended by deleting the language stricken and adding the language
18 underlined as follows:

19 **Sec. 24-11. Definitions.**

20 ~~(a) *Child care center*, as used in this division, means a facility, by whatever name known, which~~
21 ~~is maintained for the care during the whole or part of a day, but for less than twenty-four (24)~~
22 ~~hours of continuous care, of five (5) or more children from the ages of six (6) weeks through~~
23 ~~sixteen (16) years, who are not related to the owner, operator or manager thereof, whether~~
24 ~~such facility is operated with or without compensation for such care, and with or without~~
25 ~~stated educational purposes.~~

26 ~~(b) *Outdoor general advertising device*. A sign which directs attention to a business,~~
27 ~~commodity, service, entertainment or attractions sold, offered, or existing elsewhere than~~
28 ~~upon the same property or public property where the sign is displayed. For the purposes of~~
29 ~~this division, outdoor general advertising device shall include but is not limited to billboards,~~
30 ~~bus benches and such other signs which are visible to the public but are not on the property~~
31 ~~where the tobacco product is available.~~

32 ~~(c) *Person*, as used in this division, means any firm, corporation, association, or other~~
33 ~~organization acting as a group or unit as well as an individual. It shall also include an~~
34 ~~executor, administrator, trustee, receiver, or other representative appointed according to~~
35 ~~law.~~

1 ~~(d) Publicly visible location, as used in this division, means any:~~

2 ~~(1) Outdoor location visible to the public including, but not limited to, outdoor billboards and~~
3 ~~signs located on roofs, sides of buildings, water towers, and any freestanding~~
4 ~~signboards; and~~

5 ~~(2) Any location within a building that is reasonably visible to the public from the outside at a~~
6 ~~distance of two (2) feet from doors or windows.~~

7 (e) *Self-service fixture*, as used in this division, means any display unit or device from which a
8 product may be obtained without the aid of store personnel.

9 ~~(f) School premises, as used in this division, means the buildings, grounds or facilities, or any~~
10 ~~portion thereof, meeting the requirements of the compulsory education laws of the state.~~

11 (g) *Single vend "lock-out" device*, as used in this division, means a device which must be
12 activated by an employee in order for a vending machine to dispense a single product.

13 ~~(h) Spirituous liquors, as used in this division, shall mean any alcoholic beverage obtained by~~
14 ~~distillation, mixed with water and other substances in solution, and includes among other~~
15 ~~things brandy, rum, whisky, gin and every liquid or solid, patented or not, containing at least~~
16 ~~one half of one (1) percent alcohol by volume and which is fit for human consumption.~~

17 (i) *Tobacco product*, as used in this division, means ~~cigarettes, cigars, cheroots, stogies,~~
18 ~~periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco, snuff,~~
19 ~~snuff flour, cavendish, plug, and twist tobacco, fine cut and other chewing tobaccos, shorts,~~
20 ~~refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of~~
21 ~~tobacco, prepared in such manner as to be suitable for chewing or for smoking in a pipe or~~
22 ~~otherwise, or both for chewing and smoking~~(1) any product containing tobacco or nicotine or
23 that is made or derived from tobacco that may be used to introduce tobacco or nicotine into
24 the human body, such as cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco,
25 dipping tobacco, dissolvable tobacco products, and nicotine-enhanced products; (2) any
26 electronic device that is intended to deliver nicotine to the person inhaling from the device,
27 including any solution, compound, or other substance containing nicotine to be used with
28 the device; and (3) any other preparation of tobacco, other than a cigarette, and any product
29 or formulation of matter containing biologically active amounts of nicotine that may be used
30 to introduce these substances into the human body. Excluded from this definition are any
31 products specifically approved by the United States Food and Drug Administration for use in
32 reducing, treating, or eliminating nicotine or tobacco dependence or for other medical
33 purposes, when these products are being marketed and sold solely for such approved
34 purpose.

1 (j) *Vending machine*, as used in this division, means any mechanical, electric or electronic
2 device that, on insertion of money, tokens or any other form of payment, automatically
3 dispenses tobacco products.

4 **Section 2.** That Section 24-14.5 of Division 3, Article I of Chapter 24 of the Revised
5 Municipal Code shall be amended by deleting the language stricken and adding the language
6 underlined as follows:

7 **Sec. 24-14.5. Promotion and advertising of tobacco products.**

8 ~~(a) After July 1, 1999, it shall be unlawful for any person that provides general outdoor~~
9 ~~advertising devices to have more than ten (10) percent of the faces of its general outdoor~~
10 ~~advertising devices in any quadrant of the city used to advertise tobacco or tobacco~~
11 ~~products. The quadrants of the city shall be defined by the center lines of Colfax Avenue~~
12 ~~and Broadway. In enforcing this paragraph, the city shall not request any financial or~~
13 ~~proprietary information from the outdoor advertising companies. Repealed.~~

14 ~~(b) It shall be unlawful to advertise tobacco products in a publicly visible location within one~~
15 ~~thousand (1,000) feet of the perimeter of the premises of any public park or recreation~~
16 ~~center operated by the department of parks and recreation or any school on a list available~~
17 ~~from the manager on November 1st of each year to be applied the following year. Repealed.~~

18 ~~(c) Within any premises where children are allowed, it shall be unlawful to place tobacco~~
19 ~~advertising less than three (3) feet above the floor level in a location visible to customers.~~
20 ~~Repealed.~~

21 ~~(d) It shall be unlawful for any manufacturer, wholesaler, or retailer or any person representing~~
22 ~~such manufacturer, wholesaler, or retailer to give away tobacco products.~~

23 **Section 3.** That Section 24-15.7 of Division 3, Article I of Chapter 24 is hereby repealed.
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1 COMMITTEE APPROVAL DATE: April 28, 2015
2 MAYOR-COUNCIL DATE: May 5, 2015
3 PASSED BY THE COUNCIL: _____, 2015

4 _____ - PRESIDENT

5 APPROVED: _____ - MAYOR _____, 2015

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

9 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____, 2015; _____, 2015

10 PREPARED BY: Jessica Brody, Assistant City Attorney DATE: May 7, 2015

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, City Attorney for the City and County of Denver

16 BY: _____, Assistant City Attorney DATE: _____, 2015