

BY AUTHORITY

ORDINANCE NO.
SERIES OF 2015

COUNCIL BILL NO. CB15-0516
COMMITTEE OF REFERENCE:
Safety & Well-being

A BILL

For an ordinance amending various provisions of the Denver Revised Municipal Code to clarify the circumstances under which it is unlawful to violate a rule or regulation

WHEREAS, the general penalty section of the Denver Revised Municipal Code, Section 1-13, makes it unlawful to violate any rule or regulation promulgated under the code; and

WHEREAS, numerous provisions of the Denver Revised Municipal Code authorize various officers or boards of the City and County of Denver to promulgate rules and regulations; and

WHEREAS, the specific code provisions that enables rulemaking by various city officers and boards are inconsistent in terms of reiterating the principle set forth in the general penalty section, i.e. the principle that violation of a rule or regulation is treated as an unlawful act under the code; and

WHEREAS, the purpose of this ordinance is to codify more consistently throughout the Denver Revised Municipal Code the principle that violation of a rule is treated as an unlawful act, and thereby allow for clearer and more consistent enforcement of rules violations by reference to the specific code section that provides legal authority for the promulgation of the rule in question.

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

Section 1. That section 4-6, D.R.M.C. concerning the rule-making authority of the board of environmental health in regard to **air pollution control** shall be amended by adding a new subsection (d) to read as follows:

Sec. 4-6. Power of board of environmental health.

1 (d) It shall be unlawful for any person to violate a rule or regulation adopted by the
2 board or the manager pursuant to this section.

3
4 **Section 2.** That section 6-41, D.R.M.C. concerning the rule-making authority of the director
5 of excise and licenses in regard to **cabarets** shall be amended by adding the language underlined,
6 to read as follows:

7 **Sec. 6-41. Rules and regulations.**

8 The director may make such reasonable rules and regulations as may be
9 necessary for the purpose of administering and enforcing the provisions of this article
10 and any other ordinances or laws relating to and affecting the licensing and operation
11 of cabarets as described herein. It shall be unlawful for any person to violate a rule or
12 regulation adopted by the director pursuant to this section.

13
14 **Section 3.** That subsection 7-2 (a), D.R.M.C. concerning the rule-making authority of
15 the director of excise and licenses in regard to **amusements** shall be amended by adding
16 the language underlined, to read:

17 **Sec. 7-2. Powers of director of excise and licenses.**

18 (a) The director may make and adopt such reasonable rules and regulations as may
19 be necessary for the purposes of administering and enforcing the provisions of
20 this chapter and any other ordinances or laws relating to and affecting the
21 regulation, licensing, and operation of the amusements described in this chapter.
22 It shall be unlawful for any person to violate a rule or regulation adopted by the
23 director pursuant to this section.

24
25 **Section 4.** That section 7-57, D.R.M.C. concerning the rule-making authority of the
26 director of excise and licenses in regard to **public dance halls** shall be amended by adding
27 the language underlined, to read:

28
29 **Sec. 7-57. Rules and regulations.**

1 The director may make and promulgate rules and regulations for the
2 administration of this article and further regulating the conduct of public dance halls
3 and public dances consistent with the provisions of this article. It shall be unlawful for
4 any person to violate a rule or regulation adopted by the director pursuant to this
5 section.

6
7 **Section 5.** That section 7-95, D.R.M.C. concerning the rule-making authority of the
8 director of excise and licenses in regard to **social rooms and after hours restaurants** shall
9 be amended by adding the language underlined, to read:

10 **Sec. 7-95. Rules and regulations.**

11 The director may make such reasonable rules and regulations as may be
12 necessary for the purpose of administering and enforcing the provisions of this article
13 and any other ordinances or laws relating to and affecting the licensing and operation
14 of social rooms or after hours restaurants as described herein. It shall be unlawful for
15 any person to violate a rule or regulation adopted by the director pursuant to this
16 section.

17 **Section 6.** That section 22-81, D.R.M.C concerning the rule-making authority of the
18 manager of safety in regard to the **safe operation and maintenance of motor vehicle by**
19 **motor carriers** shall be amended by deleting the language stricken and adding the
20 language underlined, to read as follows:

21 **Sec. 22-81(2). Powers of manager of safety.**

22 The manager of safety is hereby authorized and directed to adopt and
23 promulgate, as the rules and regulations of the city, the appropriate provisions of the Code
24 of Federal Regulations relating to the safe operation and maintenance of motor vehicles by
25 motor carriers. Specifically, the manager is authorized and directed hereunder to adopt and
26 promulgate the appropriate provisions of the Code of Federal Regulations, Title 49, Parts
27 350 ~~390~~ to 397 of the Federal Motor Carrier Safety Regulations, as from time to time
28 amended.

1 **Section 7.** That Section 23-9, D.R.M.C. concerning the rule-making authority of the
2 board of environmental health in regard to **food and food handling** shall be amended by
3 deleting the language stricken and adding the language underlined, to read as follows:

4 **Sec. 23-9. Powers of the board.**

5 Charter section ~~A8-3-2~~ 2.12.4 (B) authorizes the board to adopt rules and
6 regulations necessary to protect public health, which the board may do to amplify and
7 augment the requirements of this chapter 23. Chapter 24, article I of this Code
8 authorizes the board to grant variances from the terms of the rules and regulations
9 adopted by the board. It shall be unlawful for any person to violate a rule or
10 regulation adopted by the board pursuant to this section or section 2.12.4 (B) of the
11 charter.

12
13 **Section 8.** That Section 23-40, D.R.M.C. concerning the rule-making authority of the
14 board of environmental health in regard to **ice cream vendors** shall be amended by adding
15 the language underlined, to read as follows:

16 **Sec. 23-40. Requirements.**

17 In addition to any rules and regulations necessary to protect public health, the
18 board shall adopt and promulgate rules and regulations concerning public safety
19 issues surrounding ice cream vendors. It shall be unlawful for any person to violate a
20 rule or regulation adopted by the board pursuant to this section.

21
22 **Section 9.** That Section 24-16, D.R.M.C. concerning the rule-making authority of the
23 manager of environmental health in regard to **health and sanitation** shall be amended by
24 adding a new subsection (7), to read as follows

25 **Sec. 24-16. General powers and duties.**

26 The manager of environmental health, as provided under the Charter, shall
27 exercise a general supervision over the environmental health of the city, and shall
28 have full power:

1 (7) It shall be unlawful for any person to violate a rule or regulation adopted by
2 the manager pursuant to this section.

3
4 **Section 10.** That Section 24-41, D.R.M.C. concerning the rule-making authority of
5 the board of environmental health in regard to **private water supply systems** shall be
6 amended by adding the language underlined, to read as follows:

7 **Sec. 24-41. Rules and regulations.**

8 The board of environmental health is authorized to adopt, and the department
9 shall promulgate, rules and regulations consistent with the standards established by
10 ordinance for the construction, materials, location, maintenance and use of private
11 water supply systems which amplify and augment the provisions hereof. It shall be
12 unlawful for any person to violate a rule or regulation adopted by the board pursuant
13 to this section.

14
15 **Section 11.** That the introductory paragraph to Section 24-157, D.R.M.C. concerning
16 the rule-making authority of the board of environmental health in regard to **qualified needle**
17 **exchange programs** shall be amended by adding the language underlined, to read as
18 follows:

19 **Sec. 24-157. Registration of qualified needle exchange and treatment referral**
20 **programs.**

21 The manager may register up to three (3) needle exchange and treatment
22 referral programs that the manager determines meet the requirements of state and
23 local laws and the rules and regulations adopted by the board of environmental
24 health to govern needle exchange and treatment referral programs. It shall be
25 unlawful for any person to violate a rule or regulation adopted by the board pursuant
26 to this section. In order to qualify for registration, the needle exchange and treatment
27 referral programs shall:

28 **Section 12.** That section 24-237, D.R.M.C. concerning the rule-making authority of
29 the board of environmental health in regard to **the construction and location of any and**

1 **all privy vaults, septic tanks and cesspools** shall be amended by adding the language
2 underlined, to read:

3 **Sec. 24-237. Rules and regulations.**

4 The board of environmental health is empowered to adopt rules, regulations
5 and standards in connection with the construction and location of any and all privy
6 vaults, septic tanks and cesspools located within the city. Such regulations shall be
7 designed to protect the health and safety of the people of the city. It shall be unlawful
8 for any person to violate a rule or regulation adopted by the board pursuant to this
9 section.

10 **Section 13.** That section 24-354, D.R.M.C. concerning the rule-making authority of
11 the board of environmental health in regard to **specific safety procedures and techniques**
12 **necessary in the practice of body art** shall be amended by adding the language
13 underlined, to read:

14 **Sec. 24-354. Rules and regulations.**

15 The board of environmental health is authorized to adopt, and the manager of
16 the department of environmental health shall promulgate, rules and regulations,
17 consistent with this article, relating to body art, including, but not limited to: specific
18 safety procedures and techniques necessary in the practice of body art; required
19 facilities, equipment, maintenance, records, sanitation, and general operation for
20 body art establishments, mobile body art vehicles, and temporary special event body
21 art facilities; and the minimum applicant qualifications for the issuance of licenses
22 and temporary permits to body artists. It shall be unlawful for any person to violate a
23 rule or regulation adopted by the board pursuant to this section.

24

25 **Section 14.** That Section 27-25, D.R.M.C. concerning the rule-making authority of
26 the board of environmental health in regard to **housing code** shall be amended by adding
27 the language underlined, to read as follows:

28 **Sec. 27-25. Rules and regulations.**

1 The board shall adopt and the manager shall promulgate rules and regulations
2 to establish minimum standards as indicated in the article and the board and
3 manager are hereby authorized to adopt and promulgate other rules and regulations
4 as determined necessary for the proper and effective enforcement of the provisions
5 of this article. It shall be unlawful for any person to violate a rule or regulation
6 adopted by the board pursuant to this section.

7
8 **Section 15.** That Section 33.5-33, D.R.M.C. concerning the rule-making authority of
9 the manager of environmental health in regard to **massage parlors** shall be amended by
10 adding the language underlined, to read as follows:

11 **Sec. 33.5-33. Rules and regulations.**

12 The manager of environmental health may issue and promulgate rules and
13 regulations to provide for the public health, safety and welfare in relation to massage
14 parlors. It shall be unlawful for any person to violate a rule or regulation adopted by
15 the manager pursuant to this section.

16
17 **Section 16.** That subsection 35-21 (a), D.R.M.C. concerning the rule-making
18 authority of the manager of environmental health in regard to **trailer parks** shall be
19 amended by adding the language underlined, to read as follows:

20 **Sec. 35-21. Sanitation requirements.**

21 (a) *Health rules and regulations.* The manager of environmental health shall supply
22 operators of all trailer parks with copies of all health rules and regulations
23 promulgated by the manager, and of any changes that may be made from time to
24 time. Such rules and regulations shall be posted and kept posted by such
25 operators in a protected, conspicuous place within the trailer park. It shall be
26 unlawful for any person to violate a rule or regulation adopted by the manager
27 pursuant to this section.

1 **Section 17.** That section 37-18, D.R.M.C. concerning the rule-making authority of
2 the board of environmental health in regard to **health nuisances** shall be amended by
3 adding the language underlined, to read as follows:
4

5 **Sec. 37-18. Rules and regulations.**

6 The board of environmental health shall promulgate from time to time, rules and
7 regulations pertaining to the requirements of sanitation, cleanliness and public
8 health as they relate to the keeping and maintaining of domesticated pet animals,
9 animal or fowl enclosures, buildings, premises and other areas so as to avoid the
10 creation of a health nuisance. It shall be unlawful for any person to violate a rule
11 or regulation adopted by the board pursuant to this section.
12

13 **Section 18.** That section 42-141, D.R.M.C. concerning the rule-making authority of
14 the director of excise and licenses in regard to the **merchant guard or merchant patrol**
15 **business** shall be amended by adding the language underlined, to read as follows:
16

17 **Sec. 42-141. Rules and regulations.**

18
19 The director of excise and licenses may issue and promulgate from time to
20 time rules and regulations to provide for the health, safety and welfare of the city in
21 relation to the merchant guard or merchant patrol business. Such rules may pertain
22 by way of example to the duties of licensees, manner of conduct of merchant guard
23 or merchant patrol businesses, merchant guards or merchant patrols and business or
24 industrial guards, and reports to be furnished to the director of excise and licenses. .
25 It shall be unlawful for any person to violate a rule or regulation adopted by the
26 director pursuant to this section.
27

28
29 **Section 19.** That section 45-24, D.R.M.C. concerning the rule-making authority of
30 the manager of safety in regard to **pawnbrokers** shall be amended by adding the language
31 underlined, to read as follows:
32

1 **Sec. 45-24. Rules and regulations.**

2 The manager of safety shall have the authority to make and promulgate such
3 rules and regulations as the manager finds necessary for the administration and
4 enforcement of this article in addition to the provisions of this article and not
5 inconsistent therewith. Such rules and regulations shall provide detailed specimens
6 of all forms required by this article and the manager may furnish to licensed
7 pawnbrokers such forms as the manager desires them to use. It shall be unlawful for
8 any person to violate a rule or regulation adopted by the manager pursuant to this
9 section.

10
11 **Section 20.** That section 45-72, D.R.M.C. concerning the rule-making authority of
12 the director of excise and licenses in regard to **secondhand dealers** shall be amended by
13 adding the language underlined, to read as follows:
14

15 **Sec. 45-72. Rules and regulations.**

16 The director of excise and licenses shall have the authority to make and
17 promulgate such rules and regulations as the director finds necessary for the
18 administration and enforcement of this article and articles IV, V, and VI of this
19 chapter. It shall be unlawful for any person to violate a rule or regulation adopted by
20 the director pursuant to this section.

21 **Section 21.** That section 48-20, D.R.M.C. concerning the rule-making authority of
22 the manager of public works in regard to **household garbage** shall be amended by adding
23 the language underlined, to read as follows:
24

25 **Sec. 48-20. Rules and regulations.**

26 The manager of public works shall be empowered to prescribe such rules and
27 regulations as the manager may deem proper not inconsistent with the Charter and
28 ordinances, to govern the manner and time for the collection, removal and disposition

1 of household garbage. It shall be unlawful for any person to violate a rule or
2 regulation adopted by the manager pursuant to this section.

3
4 **Section 22.** That section 48-34, D.R.M.C. concerning the rule-making authority of
5 the manager of public works in regard to **commercial garbage** shall be amended by adding
6 the language underlined, to read as follows:

7
8 **Sec. 48-34. Rules and regulations.**

9 The manager of public works shall be empowered to prescribe such rules and
10 regulations as the manager may deem proper not inconsistent with the Charter and
11 ordinances, to govern the manner and time for the collection, removal and disposition
12 of commercial garbage. It shall be unlawful for any person to violate a rule or
13 regulation adopted by the manager pursuant to this section.

14 **Section 23.** That section 48-45, D.R.M.C. concerning the rule-making authority of
15 the manager of public works in regard to **the methods of preparation and storage of**
16 **household rubbish, yard rubbish, cold ashes, and compost material** shall be amended
17 by adding the language underlined, to read:

18 **Sec. 48-45. Rules and regulations.**

19 The manager of public works is authorized to issue from time to time such
20 rules and regulations as are necessary to prescribe the categories of dwelling units
21 from which collections of household rubbish, yard rubbish, cold ashes, compost
22 material, and any one (1) or more thereof, shall be made, and the methods of
23 preparation and storage of household rubbish, yard rubbish, cold ashes, and
24 compost material. It shall be unlawful for any person to violate a rule or regulation
25 adopted by the manager pursuant to this section.

1 **Section 24.** That section 49-161, D.R.M.C. concerning the rule-making authority of
2 the manager of public works in regard to **right-of-way improvements** shall be amended by
3 adding the language underlined, to read as follows:

4

5 **Sec. 49-161. Rules and regulations.**

6 The manager of public works shall have the authority to make and promulgate
7 such rules and regulations as the manager finds necessary for the administration and
8 enforcement of this article not inconsistent with the Charter and ordinances. It shall
9 be unlawful for any person to violate a rule or regulation adopted by the manager
10 pursuant to this section.

11

12 **Section 25.** That section 49-346, D.R.M.C. concerning the rule-making authority of
13 the manager of public works in regard to **permanent occupancy of right-of-way** shall be
14 amended by adding the language underlined, to read as follows:

15 **Sec. 49-346. Rules and regulations.**

16 The manager of public works shall be authorized to adopt rules and
17 regulations in furtherance and consistent with this article. It shall be unlawful for any
18 person to violate a rule or regulation adopted by the manager pursuant to this
19 section.

20

21 **Section 26.** That section 49-461, D.R.M.C. concerning the rule-making authority of
22 the manager of public works in regard to **temporary occupancy of right-of-way** shall be
23 amended by adding the language underlined, to read as follows:

24 **Sec. 49-461. Authority.**

25 The manager of public works is authorized to permit the occupancy of the
26 public right-of-way outside of the roadway for vehicle parking, for bus shelters and
27 advertising kiosks and for nonpermanent placement of privately-owned street
28 furniture, according to the provisions described in this article. The manager of public

1 works is further authorized to adopt such rules and regulations as may be required to
2 implement this article and to assign to a designated representative the responsibility
3 for administering this article. It shall be unlawful for any person to violate a rule or
4 regulation adopted by the manager pursuant to this section. Street furniture is
5 defined as any appurtenance placed on the public right-of-way outside of the
6 roadway, excluding any object below ground, any building and any object attached to
7 or part of a building.

8
9 **Section 27.** That section 55-145, D.R.M.C. concerning the rule-making authority of
10 the director of excise and licenses in regard to **escort vehicles** shall be amended by adding
11 the language underlined, to read as follows:

12 **Sec. 55-145. Rules and regulations.**

13 The director of excise and licenses may adopt and enforce reasonable rules
14 and regulations for operation of escort vehicles and for the use of identification cards,
15 uniforms and equipment in connection with such operation, to carry out the purposes
16 and provisions of this article. It shall be unlawful for any person to violate a rule or
17 regulation adopted by the director pursuant to this section.

18
19 **Section 28.** That section 55-179, D.R.M.C. concerning the rule-making authority of
20 the director of excise and licenses in regard to **wrecker and towing services** shall be
21 amended by adding the language underlined, to read as follows:

22 **Sec. 55-179. Rules and regulations.**

23 The director of excise and licenses may adopt and enforce reasonable rules
24 and regulations for administrative purposes in accordance with the provisions of this
25 article for public towing services, private towing operators, and towing vehicle
26 operators. It shall be unlawful for any person to violate a rule or regulation adopted
27 by the director pursuant to this section.

1 **Section 29.** That section 55-298, D.R.M.C. concerning the rule-making authority of
2 the director of excise and licenses in regard to **vehicle immobilization services** shall be
3 amended by adding the language underlined, to read as follows:

4 **Sec. 55-298. Rules and regulations.**

5 The director of excise and licenses may adopt and enforce reasonable rules
6 and regulations for vehicle immobilization services, which rules and regulations shall
7 be issued and promulgated from time to time, to provide for the health, safety and
8 welfare of the city in relation to vehicle immobilization services and the operators,
9 agents, servants and employees of such services. Such rules and regulations may
10 pertain by way of example to the duties of licensees, the manner of conduct of the
11 business and of the operators, agents, servants and employees, and reports to be
12 furnished to the director. It shall be unlawful for any person to violate a rule or
13 regulation adopted by the director pursuant to this section.

14 **Section 30.** That section 59-1, D.R.M.C. concerning the adoption of the **zoning**
15 **code** by the department of community planning and development shall be amended by
16 adding the language underlined, to read as follows:

17 **Sec. 59-1. Zoning code.**

18 The zoning code as filed with the Denver City Clerk on 20th day of February
19 2014, at City Clerk Filing No. 14-131, is hereby adopted as the official zoning code
20 for the City and County of Denver ("Denver Zoning Code"). The Denver Zoning Code
21 and all amendments thereto shall be maintained in and kept current by the
22 department of community planning and development and shall be available to the
23 public. . It shall be unlawful for any person to violate a rule or regulation adopted by
24 the department pursuant to this section.

25 COMMITTEE APPROVAL DATE: July 23, 2015.

26 MAYOR-COUNCIL DATE: July 28, 2015.

27 PASSED BY THE COUNCIL _____ 2015

28 _____ - PRESIDENT

29 APPROVED: _____ - MAYOR _____ 2015

30 ATTEST: _____ - CLERK AND RECORDER,
31 EX-OFFICIO CLERK OF THE

CITY AND COUNTY OF DENVER

1
2
3
4
5
6
7
8
9
10
11
12
13
14

NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2015; _____ 2015
PREPARED BY: Patrick McKinstry, Asst. City Attorney; DATE: _____

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

D. Scott Martinez, City Attorney

BY: _____, Assistant City Attorney DATE: _____