

1 BY AUTHORITY

2 ORDINANCE NO. _____
3 SERIES OF 2023

COUNCIL BILL NO. _____
COMMITTEE OF REFERENCE:

4
5 A BILL

6
7 **For an ordinance amending Chapters 24, 38, and 49 of the Revised Municipal**
8 **Code concerning the removal of shelter when the outside temperature is**
9 **predicted to be thirty-two degrees Fahrenheit or lower.**
10

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

12 **Section 1.** That section 24-16, D.R.M.C. shall be amended by adding the language underlined,
13 to read as follows:

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

15 (a) The manager of public health and environment, as provided under the Charter, shall
16 exercise a general supervision over the public health and environment of the city, and shall have full
17 power:

18 (1) To take all measures necessary to promote the health and cleanliness of the city and its
19 inhabitants and visitors;

20 (2) To abate all nuisances related to public health and environment of every
21 description on public and private property;

22 (3) To prevent the introduction or spreading within the city of malignant, contagious and
23 infectious diseases, and to remove, detain, isolate or quarantine any person attacked by or having any
24 such disease, or who has been exposed thereto;

25 (4) To adopt in reference to any such person, any rules, regulations, restrictions or
26 measures that may by the manager be deemed advisable;

27 (5) To procure suitable shelter in cases of public health and environment emergencies and
28 to establish rules and regulations for the government of the same; and

29 (6) To prevent, by such rules or regulations as the manager may deem expedient and adopt,
30 the introduction or the spreading of contagious or infectious diseases within the city and its environs.

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

33 (b) The manager may not order the removal of any shelter, as defined in section 38-
34 86.2(d)(1), if forty-eight (48) hours prior to the order of removal the external ambient temperature is

1 predicted by the National Weather Service to be thirty-two (32) degrees Fahrenheit or lower during the
2 period when the removal will occur or within four (4) hours after anticipated completion of the removal.
3 Provided, however, it shall be an exception to this subsection if the manager certifies in the order, by
4 reasons of facts stated in writing, that removal of a shelter is necessary to mitigate a condition that
5 would cause greater imminent peril to the health or safety of any person than the threat to health
6 posed by exposure to existing weather conditions.

7 **Section 2.** That section 38-86.2, D.R.M.C. shall be amended by deleting the language
8 stricken, and adding the language underlined, to read as follows:

9 **Sec. 38-86.2. - Unauthorized camping on public or private property prohibited.**

10 (d) No law enforcement officer shall make an arrest under this section unless:

11 (1) Forty-eight (48) hours prior to the arrest, the external ambient temperature is predicted
12 by the National Weather Service to be thirty-two (32) degrees Fahrenheit or higher at the time of
13 arrest; or

14 (2) The manager of the Department of Public Health and Environment has certified, by
15 reasons of facts stated in writing, that enforcement is or was necessary to mitigate a condition that
16 would cause greater imminent peril to the health or safety of any person than the threat to health
17 posed by exposure to existing weather conditions; and

18 ~~(de)~~ For purposes of this section:

19
20 **Section 3.** That section 49-246, D.R.M.C. shall be amended by adding the language
21 underlined, to read as follows:

22 **Sec. 49-246. - Order of removal.**

23 (a) The manager of transportation and infrastructure or the manager's designee (hereinafter
24 in this article, "manager") is authorized to remove or to order the removal of any article, vehicle or
25 thing whatsoever encumbering any street, alley, sidewalk, parkway or other public way or place (any
26 such thing hereinafter in this article to be called an "encumbrance"). The manager may prescribe
27 appropriate methods, specifications, placement and materials for encumbrances in the public right-of-
28 way.

29 (b) The manager may not order the removal of any shelter, as defined in section 38-
30 86.2(d)(1), if forty-eight (48) hours prior to the order of removal the external ambient temperature is
31 predicted by the National Weather Service to be thirty-two (32) degrees Fahrenheit or lower during the
32 period when the removal will occur or within four (4) hours after anticipated completion of the removal.
33 Provided, however, it shall be an exception to this subsection if the manager of the Department of
34 Public Health and Environment has certified, by reasons of facts stated in writing, that removal of a

1 shelter is or was necessary to mitigate a condition that would cause greater imminent peril to the
2 health or safety of any person than the threat to health posed by exposure to existing weather
3 conditions.

4
5 COMMITTEE APPROVAL DATE: _____, 2023.

6 MAYOR-COUNCIL DATE: _____, 2023.

7 PASSED BY THE COUNCIL _____ 2023

8 _____ - PRESIDENT

9 APPROVED: _____ - MAYOR _____ 2023

10 ATTEST: _____ - CLERK AND RECORDER,
11 EX-OFFICIO CLERK OF THE
12 CITY AND COUNTY OF DENVER
13

14 NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2023; _____ 2023

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16 PREPARED BY: Anshul Bagga, Assistant City Attorney; DATE: March 7, 2023

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18 Pursuant to section 13-9, D.R.M.C., this proposed ordinance has been reviewed by the office of the
19 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
20 ordinance. The proposed ordinance **is not** submitted to the City Council for approval pursuant to §
21 3.2.6 of the Charter.
22

23 Kerry Tipper

24 City Attorney

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26 BY: _____, _____ City Attorney DATE: _____