

1 BY AUTHORITY

2 ORDINANCE NO. \_\_\_\_\_  
3 SERIES OF 2023

COUNCIL BILL NO. \_\_\_\_\_  
COMMITTEE OF REFERENCE:

4  
5 A BILL

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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.**  
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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.

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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

25  
26 BY: \_\_\_\_\_, \_\_\_\_\_ City Attorney DATE: \_\_\_\_\_