

1 BY AUTHORITY

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

COUNCIL BILL NO.23-1960

COMMITTEE OF REFERENCE:

4 Safety, Housing, Education & Homelessness

5  
6 A BILL

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 predicted**  
9 **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 chapter 24, article II shall be amended by adding the language underlined, to  
13 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, detail, 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  
35 predicted by the National Weather Service to be thirty-two (32) degrees Fahrenheit or lower during the

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

6 **Section 2.** That chapter 38, article III, division 1 shall be amended by deleting the language  
7 stricken, and adding the language underlined, to read as follows:

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

9 (c) No law enforcement officer shall issue a citation, make an arrest, or otherwise enforce  
10 this section against any person unless:

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

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

18 ~~(1)(3)~~ The officer orally requests or orders the person to refrain from the alleged violation of this  
19 section and, if the person fails to comply after receiving the oral request or order, the officer tenders a  
20 written request or order to the person warning that if the person fails to comply the person may be  
21 cited or arrested for a violation of this section; and

22 ~~(2)(4)~~ The officer attempts to ascertain whether the person is in need of medical or human  
23 services assistance, including, but not limited, to mental health treatment, drug or alcohol  
24 rehabilitation, or homeless services assistance. If the officer determines that the person may be in  
25 need of medical or human services assistance, the officer shall make reasonable efforts to contact and  
26 obtain the assistance of a designated human service outreach worker, who in turn shall assess the  
27 needs of the person and, if warranted, direct the person to an appropriate provider of medical or  
28 human services assistance in lieu of the person being cited or arrested for a violation of this section. If  
29 the officer is unable to obtain the assistance of a human services outreach worker, if the human  
30 services outreach worker determines that the person is not in need of medical or human services  
31 assistance, or if the person refuses to cooperate with the direction of the human services outreach  
32 worker, the officer may proceed to cite or arrest the person for a violation of this section so long as the  
33 warnings required by paragraph ~~(4)~~ of this subsection have been previously given.

34 **Section 3.** That chapter 49, article IX, shall be amended by adding the language underlined, to

1 read as follows:

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

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

9 (b) The manager may not order the removal of any shelter, as defined in section 38-  
10 86.2(d)(1), if forty-eight (48) hours prior to the order of removal the external ambient temperature is  
11 predicted by the National Weather Service to be thirty-two (32) degrees Fahrenheit or lower during the  
12 period when the removal will occur or within four (4) hours after anticipated completion of the removal.  
13 Provided, however, it shall be an exception to this subsection if the manager of the Department of  
14 Public Health and Environment has certified, by reasons of facts stated in writing, that removal of a  
15 shelter is or was necessary to mitigate a condition that would cause greater imminent peril to the  
16 health or safety of any person than the threat to health posed by exposure to existing weather  
17 conditions.

18 COMMITTEE APPROVAL DATE: December 20, 2023

19 MAYOR-COUNCIL DATE: December 26, 2023 by Consent

20 PASSED BY THE COUNCIL \_\_\_\_\_

21 \_\_\_\_\_ - PRESIDENT

22 APPROVED: \_\_\_\_\_ - MAYOR \_\_\_\_\_

23 ATTEST: \_\_\_\_\_ - CLERK AND RECORDER,  
24 EX-OFFICIO CLERK OF THE  
25 CITY AND COUNTY OF DENVER  
26

27 NOTICE PUBLISHED IN THE DAILY JOURNAL \_\_\_\_\_; \_\_\_\_\_

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

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

33  
34 Kerry Tipper, Denver City Attorney

35  
36 BY: Anshul Bagga, Assistant City Attorney

DATE: Jan 4, 2024