

1 BY AUTHORITY

2 ORDINANCE NO. _____
3 SERIES OF 2023
4 **AMENDED 1-29-24**

COUNCIL BILL NO.23-1960
COMMITTEE OF REFERENCE:
Safety, Housing, Education & Homelessness

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 description on
21 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(e)(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 two (2) hours after anticipated completion of the removal~~
2 ~~period when the removal will occur.~~

3 ~~(1) It shall be an exception to this subsection (b) if the manager certifies in the order of~~
4 ~~removal, by reasons of facts stated in writing, that removal of a shelter is necessary to mitigate a~~
5 ~~condition that would cause greater imminent peril to the health or safety of any person than the threat~~
6 ~~to health posed by exposure to existing weather conditions.~~ (1) ~~It shall be an exception to this~~
7 ~~subsection (b) if the manager has memorialized in writing in the order of removal the Department's~~
8 ~~conclusion that enforcement is or was necessary to mitigate a condition that would cause greater~~
9 ~~imminent peril to the health or safety of any person than the threat to health posed by exposure to~~
10 ~~existing weather conditions and facts supporting that conclusion.~~

11 (2) ~~Nothing in this subsection (b) shall prohibit an agency or department from offering~~
12 ~~medical or human services assistance, including but not limited to, mental health treatment, drug or~~
13 ~~alcohol rehabilitation, homeless services assistance, or temporary or permanent housing solutions~~
14 ~~regardless of the external ambient temperature.~~

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

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

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

20 (1) ~~The external ambient temperature is predicted by the National Weather Service to be~~
21 ~~thirty-two (32) degrees Fahrenheit or higher during the period of citation, arrest, or other enforcement;~~
22 ~~or~~

23 ~~(2) The manager of the Department of Public Health and Environment has certified, by~~
24 ~~reasons of facts stated in writing, that enforcement is or was necessary to mitigate a condition that~~
25 ~~would cause greater imminent peril to the health or safety of any person than the threat to health~~
26 ~~posed by exposure to existing weather conditions; and (2) The manager of the department of public~~
27 ~~health and environment has memorialized in writing the department's conclusion that enforcement is or~~
28 ~~was necessary to mitigate a condition that would cause greater imminent peril to the health or safety~~
29 ~~of any person than the threat to health posed by exposure to existing weather conditions and facts~~
30 ~~supporting that conclusion; and~~

31
32 (1)(3) The officer orally requests or orders the person to refrain from the alleged violation of this
33 section and, if the person fails to comply after receiving the oral request or order, the officer tenders a
34 written request or order to the person warning that if the person fails to comply the person may be

1 cited or arrested for a violation of this section; and

2 ~~(2)~~(4) The officer attempts to ascertain whether the person is in need of medical or human
3 services assistance, including, but not limited, to mental health treatment, drug or alcohol
4 rehabilitation, or homeless services assistance. If the officer determines that the person may be in
5 need of medical or human services assistance, the officer shall make reasonable efforts to contact and
6 obtain the assistance of a designated human service outreach worker, who in turn shall assess the
7 needs of the person and, if warranted, direct the person to an appropriate provider of medical or
8 human services assistance in lieu of the person being cited or arrested for a violation of this section. If
9 the officer is unable to obtain the assistance of a human services outreach worker, if the human
10 services outreach worker determines that the person is not in need of medical or human services
11 assistance, or if the person refuses to cooperate with the direction of the human services outreach
12 worker, the officer may proceed to cite or arrest the person for a violation of this section so long as the
13 warnings required by paragraph ~~(43)~~ of this subsection have been previously given.

14 (d) Nothing in subsection (c) above shall be construed to prohibit an agency or department
15 from offering medical or human services assistance, including but not limited to, mental health
16 treatment, drug or alcohol rehabilitation, homeless services assistance, or temporary or permanent
17 housing solutions regardless of the external ambient temperature.

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

19 **Section 3.** That chapter 49, article IX, shall be amended by adding the language underlined, to
20 read as follows:

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

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


28 (b) The manager may not order the removal of any shelter, as defined in section 38-
29 86.2(e)(1), if forty-eight (48) hours prior to the order of removal the external ambient temperature is
30 predicted by the National Weather Service to be thirty-two (32) degrees Fahrenheit or lower during the
31 period when the removal will occur or within two (2) hours after anticipated completion of the removal.
32 period when the removal will occur.

33 (1) It shall be an exception to this subsection (b) if the manager of the Department of Public
34 Health and Environment has certified, by reasons of facts stated in writing, that removal of a shelter is

1 ~~or was necessary to mitigate a condition that would cause greater imminent peril to the health or safety~~
2 ~~of any person than the threat to health posed by exposure to existing weather conditions.~~ (1) It
3 shall be an exception to this subsection (b) if the manager of the department of public health and
4 environment has memorialized in writing the department's conclusion that removal of the shelter is or
5 was necessary to mitigate a condition that would cause greater imminent peril to the health or safety of
6 any person than the threat to health posed by exposure to existing weather conditions and facts
7 supporting that conclusion.

8 (2) Nothing in this subsection (b) shall prohibit an agency or department from offering
9 medical or human services assistance, including but not limited to, mental health treatment, drug or
10 alcohol rehabilitation, homeless services assistance, or temporary or permanent housing solutions
11 regardless of the external ambient temperature.

12 COMMITTEE APPROVAL DATE: December 20, 2023
13 MAYOR-COUNCIL DATE: December 26, 2023 by Consent
14 PASSED BY THE COUNCIL January 29, 2024

15  _____ - PRESIDENT
16 APPROVED: _____ - MAYOR _____
17 ATTEST: _____ - CLERK AND RECORDER,
18 EX-OFFICIO CLERK OF THE
19 CITY AND COUNTY OF DENVER
20

21 NOTICE PUBLISHED IN THE DAILY JOURNAL _____; _____

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

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

27
28 Kerry Tipper, Denver City Attorney

29
30 BY: Anshul Bagga, Assistant City Attorney DATE: January 30, 2024