

ORDINANCE NO. 2238

INTRODUCED BY: \_\_\_\_\_

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AN ORDINANCE ENACTING DIVISION 11 OF ARTICLE IV OF CHAPTER 5 OF THE COMMERCE CITY REVISED MUNICIPAL CODE TO ADOPT THE *2018 INTERNATIONAL SWIMMING POOL AND SPA CODE*, WITH AMENDMENTS

WHEREAS, the City Council has determined that it is in the best interests of the City to adopt the 2018 versions of ten interconnected basic international construction codes: the *International Building Code*, *International Residential Code*, *International Existing Building Code*, *International Property Maintenance Code*, *International Plumbing Code*, *International Mechanical Code*, *International Fuel Gas Code*, *International Energy Conservation Code*, *International Fire Code*, and the *International Swimming Pool and Spa Code*; and to repeal and replace similar codes previously adopted;

WHEREAS, the International Code Council has removed the appendix chapter setting forth requirements for the design, construction, alteration, repair, and maintenance of swimming pools and spas from the 2018 edition of the International Residential Code and instead placed them into a stand-alone code book called the 2018 International Swimming Pool and Spa Code; and

WHEREAS, the City Council has specifically determined that it is in the best interest of the health, safety, and welfare of the City and its citizens that the *2018 International Swimming Pool and Spa Code* be adopted, with local amendments as set forth in this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO AS FOLLOWS:

**SECTION 1.** New division 11 of article IV of chapter 5 of the Commerce City Revised Municipal Code is hereby enacted to provide for the adoption of the 2018 International Swimming Pool and Spa Code, including all standards contained in such code, as amended herein, and shall read as follows:

## **ARTICLE IV. INTERNATIONAL CODES**

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### **Division 11. International Swimming Pool and Spa Code**

#### **Sec. 5-41100. Adoption.**

The City of Commerce City adopts the 2018 edition of the International Swimming Pool and Spa Code, including the standards referenced in such code (the “ISPSC”), save and except such amendments as set forth in this article. Copies of the ISPSC are on file in the city clerk’s office and may be inspected during regular business hours.

## **Sec. 5-41101. Amendments.**

The 2018 edition of the International Swimming Pool and Spa Code is amended in the following respects and adopted herein as amended:

(a) Section 101.1 is amended to read as follows:

**101.1 Title.** These regulations shall be known as the Swimming Pool and Spa Code of the City of Commerce City, hereinafter referred to as “this code.”

(b) Section 102.9, entitled “Other Laws,” is amended by addition of the following:

Whenever any county health department, state or federal law or regulation imposes a greater or more restrictive requirement than required by this code, the provisions of those laws or regulations shall govern. Whenever the requirements imposed by this code are greater or more restrictive than the requirements imposed by any other law or regulation or resolution of any governmental body, then the requirement of this code shall govern.

(c) Section 103, entitled “Department of Building Safety,” is deleted in its entirety and the following is added in lieu thereof:

## **SECTION 103 - CODE ADMINISTRATION**

**103.1 Entity charged with code administration.** The Community Development Department, as established by the Commerce City Revised Municipal Code, is hereby charged with the administration and enforcement of this code.

**103.2 Building official.** The building official, appointed by the City manager, is charged with the direct overall administration and enforcement of this code; and, in the performance of said duties, may delegate the necessary authority to the appropriate technical, administrative, and compliance staff under the supervision of the building official. Whenever this code uses the term “code official,” it shall mean the “building official.”

**103.3 Liability.** The code official, member of the board of appeals or employee charged with the enforcement of this code, while acting for the jurisdiction, in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered civilly or criminally liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties.

**103.3.1 Legal defense.** Any suit or criminal complaint instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this

code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The code official or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of this code.

(d) Section 104.6, entitled “Right of entry,” is deleted in its entirety and the following is added in lieu thereof:

**104.6 Right of entry.** The code official’s right to enter and inspect property shall be exercised in accordance with section 1-3001 of the Commerce City Revised Municipal Code, as amended from time to time.

(e) Section 105.6, entitled “Fees,” is deleted in its entirety and the following is added in lieu thereof:

**105.6 Fees.** The fees for any permit issued pursuant to this code, as well as related fees for work done in connection to or concurrently with the work authorized by a permit, shall be set by resolution of the city council. The city council is also authorized to establish a refund policy, and to impose additional fees for any person who commences any work before obtaining the necessary permits. No permit shall be valid until the appropriate fees have been paid.

(f) Sections 105.6.1, 105.6.2, and 105.6.3 are deleted.

(g) Section 107, entitled “Violations, is deleted in its entirety and the following is added in lieu thereof:

## **SECTION 107 - VIOLATIONS**

**107.1 Unlawful acts.** No person or entity shall violate a provision of this code, or fail to comply therewith or with any of the requirements thereof. No person or entity shall fail to comply with any order issued by the code official under this code. No person shall erect, construct, alter, repair, remove, demolish or utilize any system, or cause same to be done, except in conformity with all of the provisions of this code and in conformity with the terms and conditions of any permit, certificate, or other approval issued under this code, or of any directive of the code official.

**107.2 Penalties and enforcement.** Violations of this code are subject to enforcement through the penalties, procedures, and remedies specified in article V, chapter 5 and other applicable provisions of the Commerce City Revised Municipal Code, at the discretion of the City.

**107.3 Stop work orders.** Where the code official finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or in a manner that is dangerous or unsafe, the code official is authorized to issue a stop work order in accordance with the provisions of section 5-5007

of the Commerce City Revised Municipal Code, as may be amended from time to time.

**107.4 Unsafe Systems.** Any system regulated by this code that is unsafe or that constitutes a fire or health hazard, unsanitary condition, or is otherwise dangerous to human life is hereby declared unsafe. Any use of a system regulated by this code constituting a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment is hereby declared an unsafe use. Any such unsafe system is hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal.

**107.4.1 Authority to condemn a system.** Where the code official determines that any system, or portion thereof, regulated by this code has become hazardous to life, health or property or has become unsanitary, the code official shall order in writing that such system either be removed or restored to a safe and sanitary condition. A time limit for compliance with such order shall be specified in the written notice. A person shall not use or maintain a defective system after receiving such notice.

Where such a system is to be disconnected, written notice shall be given. In cases of immediate danger to life or property, such disconnection shall be made immediately without such notice.

**107.4.2 Authority to disconnect service utilities.** The code official shall have the authority to authorize disconnection of utility service to the pool or spa regulated by the technical codes in case of an emergency, where necessary, to eliminate an immediate danger to life or property. Where possible, the owner or the owner's authorized agent and occupant of the building where the pool or spa is located shall be notified of the decision to disconnect utility service prior to taking action. If not notified prior to disconnecting, the owner, the owner's authorized agent or the occupant of the building shall be notified in writing as soon as practical thereafter.

**107.4.3 Connection after order to disconnect.** A person shall not make connections from any energy, fuel, power supply or water distribution system, or supply energy, fuel or water to any equipment regulated by this code that has been disconnected or ordered to be disconnected by the code official or the use of which has been ordered to be discontinued by the code official until the code official authorizes the reconnection and use of such equipment.

When any system is maintained in violation of this code, and in violation of any notice issued pursuant to the provisions of this section, the code official shall institute any appropriate action to prevent, restrain, correct or abate the violation.

(h) Section 108, entitled "Means of Appeal," is deleted in its entirety and the

following is added in lieu thereof:

## **SECTION 108 – APPEALS**

**108.1 Board of appeals.** In order to hear and decide appeals of orders, decisions or determinations made by the code official relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals. For provisions relating to the board of appeals, see section 5-21 of the Commerce City Revised Municipal Code.

**SECTION 2.** Section 5-21 of the Commerce City Revised Municipal Code, entitled “Board of appeals,” is amended to read as follows:

(a) *Appointment.* A board of appeals is hereby authorized to serve on an ad hoc basis. The board shall be appointed by the city council as the need arises and when appointed shall consist of five (5) voting members who are residents of the city and who are qualified by experience or training to pass upon matters pertaining to building construction and who are not employees of the city. The board shall act in order to provide for final interpretation of provisions of the following codes and standards, appendices and addenda adopted in connection with such codes and to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application of the following codes, standards, appendices and addenda adopted in connection with such codes:

- (1) International Building Code;
- (2) International Residential Code;
- (3) International Existing Building Code;
- (4) International Property Maintenance Code;
- (5) National Electrical Code;
- (6) International Plumbing Code;
- (7) International Mechanical Code;
- (8) International Fuel Gas Code;
- (9) International Energy Conservation Code;
- (10) International Fire Code;
- ~~(11) Safety Code for Elevators and Escalators;~~

~~(12) Safety Standard for Platform Lifts and Stairway Chair Lifts;~~

~~(13) International Code Council Performance Code for Buildings and Facilities;~~

~~(14) Mobile Home Housing Code.~~

(11) International Swimming Pool and Spa Code.

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**SECTION 3.** The recitals to this Ordinance are incorporated as findings of the City Council.

**SECTION 4.** Any person or entity who violates, disobeys, omits, neglects, refuses, or fails to comply with or resists the enforcement of the ISPSC, as amended by this Ordinance, shall be subject to the applicable enforcement and remedy provisions contained in the ISPSC as amended and the enforcement, remedy, and penalty provisions of the Commerce City Revised Municipal Code, as may be amended from time to time.

**SECTION 4.** This Ordinance shall take effect on December 4, 2019.

INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE ORDERED  
THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2019.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED  
THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2019.

CITY OF COMMERCE CITY, COLORADO

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Sean Ford, Mayor

ATTEST

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Laura J. Bauer, MMC, City Clerk