

ORDINANCE NO: 2020

INTRODUCED BY: _____

AN ORDINANCE AMENDING VARIOUS SECTIONS OF THE LAND DEVELOPMENT CODE

WHEREAS, the City Council of the City of Commerce City adopted the Land Development Code by Ordinance 1720; and

WHEREAS, the Land Development Code became effective March 1, 2009; and

WHEREAS, the ongoing application and interpretation of the Land Development Code has identified areas where additional regulation and/or clarification are needed; and

WHEREAS, the City Council of the City of Commerce City wishes to address those areas.

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

SECTION 1. The following sections of the Land Development Code of the City of Commerce City are hereby amended to read as follows:

~~Sec. 21-3220. Height Exceptions.~~

~~(1) **Requirement.** No structure or building shall exceed the height limitations provided in this land development code without first obtaining a height exception or a variance. Height exceptions shall be available for structures other than those listed in paragraph (2) of this section.~~

~~(2) **Structures not eligible for height exception.** The following structures shall not exceed the height limitations provided in this land development code without first obtaining a variance:~~

- ~~(a) Signs;~~
- ~~(b) Telecommunications structures;~~
- ~~(c) Structures that exceed the approved height limit on the effective date of this land development code. Any such structure shall not be considered a non-conforming structure due to its height only;~~
- ~~(d) Development according to the terms and conditions of a final PUD permit or final subdivision plat that was approved prior to the effective date of this land development code and that has not lapsed in any way. Any structure exceeding the maximum height permitted in a zoning district, but which is~~

~~developed in accordance with such approved final plan or plat, shall not be considered a nonconforming structure due to its height only;~~

- ~~(e) Development consistent with the intent, terms, and recommendations of an applicable comprehensive plan, or other special plan adopted by the city, when such plan specifically recommends and anticipates development of structures exceeding the maximum allowed height permitted in a zoning district, but which is developed in accordance with such approved comprehensive plan or other sub-area plan, shall not be considered a nonconforming structure due to its height only.~~

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Sec. 21-3244. Lot Line and Terminology Adjustments

- (1) **Description.** The lot lines or terminology of previously recorded documents may only be adjusted in accordance with this section.
- (2) **Review.** The director and the DRT, as deemed appropriate by the director, will review applications for lot line or terminology adjustments (“adjustments”). The director is authorized to approve, approve with conditions, or deny such applications based on the criteria below.

- (4) **Acceptance of Dedications.** When an adjustment involves a street, easement, or other public use dedication, the director’s approval of the application shall constitute the city’s acceptance of any such dedication.
- (5) **Recording.** The city will record each approved adjustment. The applicant may be required to pay all recording fees.

Sec. 21-3251. PUD Zone Documents

- (1) **Description.** . . .
- (a) **Optional Design Guidelines.** While design guidelines are not required, they may be submitted for staff review and input, at the applicant’s option, for a fee. The fee for such review shall be set by city council.

Sec. 21-3252. PUD Development Permits

- (6) **Design Guidelines.** If a PUD zone document references design guidelines for the PUD, no PUD permit shall be approved until the design guidelines are finalized and on file with the city.

Sec. 21-4200. Setbacks

- (3) **Enclosed porches and patios** Enclosed porches and patios shall meet the front, side and rear yard setback requirements for principal structures.

Sec. 21-4510. I-1S Industrial Park Storage District.

- (6) **Truck and/or Truck-Trailer Sales, Repair, and/or Maintenance (including oil, lube, and/or wash).** These uses may be allowed in the I-1S district through the use-by-permit process.

Sec. 21-5214 Alcohol Sales

- (1) **Special Location Restrictions.**

- (a) **Proximity to Other Alcohol Establishment.** No retail liquor store, tavern, or beer and wine business, as defined by state law, shall be operated or maintained within 2,500 feet of an establishment that holds the exact same class of liquor license and is located within the municipal boundaries of the city without first obtaining a use-by-permit.
- (b) **Proximity to Residential.** Unless a conditional use permit is obtained, no business whose operations require both a liquor license and a Class 1 entertainment establishment license shall be operated or maintained within 2,000 feet of any residential zone district or any legally authorized residence, whether located in or outside of the city. For purposes of this section, distance shall be measured from the nearest point of the licensed

establishment to the nearest point of the residential zone district or legally authorized residence.

- (c) **Pre-Existing Use.** Any of the aforementioned establishments licensed to sell alcoholic beverages and in operation on February 2, 2004 shall be exempt from the provisions of this section. Such pre-existing uses shall be considered legal non-conforming uses and shall be governed by section 21-5520 (Non-Conforming Use).
- (2) **Micro-winery.** A micro-winery shall conduct at least two of the following four activities on-site: crushing, fermentation, bulk aging/storing, or bottling.
- (3) **Brewpub.** Not more than 30 percent of the gross floor area of a brewpub shall be used for the production of beer.
- (4) **Tasting Room.**
 - (a) **Food Sales.** The sale of food in any tasting room is prohibited. The incidental provision of food, without compensation, is allowed.
 - (b) **Room Orientation.** A tasting room shall be oriented toward the public façade. The public façade of the building shall be established by the building's address. Within a shopping center, a tasting room shall be oriented toward the common space that provides public access to the building.

Sec. 21-5240. Home Occupations

- (5) **Firearm Sales.**

- (c) No firearm related services shall be conducted on the premises.
- (d) No business shall keep more than 12 firearms for business purposes on the premises at any time.

Sec. 21-5254. Outdoor Storage

- (1) **Business Related.** All outdoor storage shall be incidental and directly related to the primary business being conducted on that property. Outdoor storage shall not be the primary use of any property and the leasing of space for outdoor storage is prohibited unless the outdoor storage is an accessory use to a business operated by

a tenant who leases any building located on such property for the operation of the tenant's business or as permitted in paragraph (4) below.

(9) **Outdoor Storage in the I-1 and I-1S Zoning Districts. . . .**

(c) Review Criteria. Outdoor storage in the areas described in paragraph (9)(a) may be permitted only if the director finds:

(e) Pre-existing Use.

(i) Any and all outdoor storage existing in the I-1 and I-1S zoning districts which have not been expressly permitted through this section or by a use-by-permit, whether or not said outdoor storage existed prior to the passage of this section is hereby declared to be illegal and in violation of this land development code.

(ii) Previous conditional use approvals. Any I-1 zoned property that had previously obtained conditional use approval for outdoor storage within the Rocky Mountain Industrial Park shall continue to operate legally under that conditional use permit until such time as the business is sold, transferred, or ceases to operate. Any new owner, tenant, or lessee will be required to obtain approval for outdoor storage in compliance with this section.

~~Sec. 21-5268. Telecommunication Facilities~~

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~~(5) — **Freestanding Facilities.**~~

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~~(b) Standards. ***~~

~~(v) If the director finds that approval would not be detrimental to the health, safety, and welfare of the residents and businesses of the city, the director may grant a permit for a commercial mobile radio service facility up to a maximum height of 70 feet in industrial zoned districts, and in other zoned districts up to the maximum height allowed in the zoned district where the facility is to be located. Upon receipt of a petition and after public hearing, the board of adjustment may grant a variance for any facility greater in height than is otherwise allowed.~~

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Sec. 21-5271. Truck and/or Vehicle Repair

(2) **Equipment, Activity, and Materials.**

- (c) **Inoperable Vehicles Prohibited.** The storing or keeping of inoperable vehicles on the property is strictly prohibited.

Sec. 21-5345. Mobile Office Structures

- (2) **Restricted Use.** A mobile office structure may be placed on property for the following limited purposes:
 - (a) Expansion space for an existing permitted principal use.
 - (b) Temporary offices for construction and security personnel during the construction of a development.
 - (c) Temporary quarters for a nonresidential use when the permanent building has been destroyed by fire or other physical catastrophe, provided that a building permit for the permanent facility is obtained within 90 days after approval of the temporary building. The director may approve a written request for an extension of an additional 90 days for good cause shown.
 - (d) Temporary quarters for general office uses including, but not limited to: hiring and membership solicitation.

- (3) **Standards. . . .**

- (f) Except as permitted in paragraph 2(c) of this section, no mobile office structure shall be placed on any property prior to the issuance of a building permit for a permanent facility.

Sec. 21-5440 Number of Accessory Structures

Except when a PUD Zone Document specifically regulates the number of accessory structures permitted within the PUD, the number of accessory structures shall comply with the provisions of this section unless a variance is granted by the board of adjustment. Trash enclosures, flagpoles, satellite dishes, clotheslines, and driveways shall not count toward the maximum number of accessory structures permitted by this section. Except as specifically provided otherwise below, all other detached accessory structures listed in table V-6 shall count toward the maximum number of accessory structures permitted by this section.

- (1) **Principal Single-Family Detached or Single-Family Attached (Duplex) Use.** No more than three accessory structures shall be permitted on a single lot.
- (2) **Principal Multi-Family Use.** For multi-family residential housing other than townhouses, no more than three accessory structures shall be permitted on a single lot. For townhouse developments where outdoor space for each unit has

been legally subdivided, no more than two accessory structures shall be permitted on a single lot. For townhouse developments where outdoor space for each unit has not been subdivided into separate legal lots, each unit shall be permitted to place one shed on its individual outdoor space. Attached and detached garages and attached carports shall not count toward this maximum.

- (3) **Principal Commercial Use.** No more than two accessory structures shall be permitted on a single lot. Within that limitation, not lot more than one shed and/or one detached garage shall be placed on a single lot.

Sec. 21-5510. Nonconforming Structures.

- (1) **Alterations and Expansions.** Except as noted below, a nonconforming structure shall not be altered or expanded unless such alteration or expansion complies with the provisions of this land development code. Expansions of the structure that comply with the applicable dimensional standards shall be permitted and shall not require a variance.

This prohibition shall not apply to any single-family detached dwelling that was situated on a lot on zoned R-3 as of January 1, 2015, provided that no other nonconformity exists on the property.

Sec. 21-7240 Use of Required Off-Street Parking Areas

- (2) **Recreational Vehicles.** Parking and storage of recreational vehicles, including but not limited to boats and campers, shall be subject to the following conditions. These conditions are in addition to those general parking requirements stated above. All recreational vehicles:

- (a) Shall be maintained in a clean, well-kept state;
- (b) Shall not be permanently connected to utility lines;
- (c) Shall not be used for the storage of goods, materials, or equipment other than those items that pertain to the use of the vehicle;
- (d) Shall be parked outside of required front yard and street side yard setbacks to the maximum extent possible;
- (e) Shall comply with all city approved regulations or codes; and
- (f) Except as expressly permitted by this land development code, shall not be used as living or sleeping quarters by any person.

In addition to the foregoing, areas within multi-family off-street parking lots that are intended to be used for the parking of tenants' recreational vehicles, such as boats and campers, shall be shown on the development plan for the project.

Sec. 21-7640 Applicability

All new construction multi-family residential dwelling developments, as well as any addition to existing multi-family residential buildings, shall be governed by the multi-family development guidelines and standards.

Sec. 21-7641 Building Orientation

- (1) **Adjacent to Public Streets.** Every front façade with a primary entrance to a dwelling unit(s) shall face the adjacent public street to the maximum extent possible. Every building containing three or more dwelling units shall have at least one building entry or doorway facing each adjacent public street.

Sec. 21-7643 Building Height, Massing, and Form

(3) Architectural Detail.

- (a) All sides of a multi-family residential building shall display a similar level of quality and architectural interest.
- (b) All facades of a multi-family residential building shall have a minimum of two differentiated planes to relieve flat, monotonous facades. Facades that exceed 65 feet in length shall have a minimum of three differentiated planes. All differentiation shall be a minimum of 12 inches.
- (c) In addition to the differentiation required by paragraph (3)(b), every façade facing a public right-of-way shall include two (2) of the following features:
- A pedestrian entry
 - A change in vertical or horizontal wall plane not otherwise required by this section
 - A change in color or material of the wall
 - A bay window or balcony
 - Detailing the wall with reveals, belt courses, cornices, projections, or other devices
 - Shuttered windows
 - Changes in parapet height

Sec. 21-7654. Building Elements

(2) Relationship of Buildings to Streets and Walks.

- (a) Building setbacks along the street. In a single-building development, the building shall be located no more than 20-feet from the front property line. In a single-building development on a corner lot, the building shall be located no more than 20-feet from either adjacent street property line. In multiple-building developments, at least one building's front or side facade shall be located no more than 20 feet from the right-of-way of the adjoining street. Any building adjacent to a public or private street and adjacent to a sidewalk, plaza, or other public space, shall provide an entry to the building from that sidewalk, plaza, or public space.
- (b) Exceptions. The building setbacks above shall not be required in sections of the development where plazas, courtyards, gardens, parks, or other public spaces integral to the development are provided adjacent to a street where these amenities have urban improvements such as paving, benches, landscaping, and other amenities that create an attractive public use area. In a single-building development on a corner lot, this setback exception shall apply to only one of the adjacent streets, not both.

Sec. 21-7730. Fences and Wall Styles

- ~~(4) — Electric Fences. Electrified fences are permitted in agricultural-zoned districts for agricultural purposes and in industrial districts for security purposes. For purposes of this section, an electric fence shall not include electric systems that use an electrified buried cable, so long as no part of the electrified cable protrudes above the surface of the ground. Except as specifically provided herein, electric fences shall comply with the standards contained in section 21-7732 of this land development code as well as the following standards.~~
 - ~~(a) — Agricultural Zone District Requirement. No electric fence shall have more than two (2) electric strands.~~
 - ~~(b) — Industrial Zone District Requirements.~~
 - ~~i. — A perimeter non electric fence must surround the exterior of an electric fence. The perimeter fence shall be located not less than six (6) inches and not more than three (3) feet from the electric fence.~~

- ii. ~~Notice of the existence of the electric fence must be posted in a conspicuous manner on the property.~~
- iii. ~~A key box with an entry key shall be installed at one or more locations, as determined by the fire department.~~
- iv. ~~No electric fence shall be installed or operated with a power source other than a storage battery not exceeding 12 volts direct current. Connection to any other power source is strictly prohibited.~~
- v. ~~It shall be unlawful to place an electric fence along any property line adjacent to a residential or public zone district or use unless the electric fence and the perimeter fence required by paragraph (i) above are set back a minimum of 20 feet from the property line and an additional perimeter fence is erected on the property line~~
- vi. ~~The maximum height for an electric fence in each of the categories contained in table VII-18 shall be eight (8) feet.~~

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SECTION 2. The Land Development Code of the City of Commerce City is hereby amended by the addition of the following sections:

Sec. 21-5255 Private Bus Stations

- (1) **General Standards.**
 - (a) Private bus stations shall provide an indoor waiting area for passengers.
 - (b) All passengers shall be required to wait indoors.
 - (c) All ticket purchasing must be conducted indoors.
- (2) **Repair and Maintenance Facilities.** Private bus stations may include facilities to perform equipment repair and/or maintenance. These facilities shall not exceed 15% of the total square footage of the principal building on the property and shall conform in all respects with section 21-5271 of this land development code.

SECTION 3. Section 21-11200 of the Land Development Code of the City of Commerce City is hereby amended by the by the addition or revision of the following terms:

Accessory Building or Structure shall mean a subordinate structure located on the same lot with the principal building, occupied by or devoted to an accessory use. Accessory structures include, but are not limited to, storage sheds, garages, covered porches, large satellite dishes, and telecommunication antennas.

Inoperable Vehicle shall mean a vehicle which is not awaiting disposition instructions as a result of a collision and: does not display current license plates from any state registered to the vehicle; is visibly damage, wrecked, dismantled, in serious disrepair, deteriorating (rusting/rotting), or missing major components; or is being salvaged, parted out, prepared for crushing, shredding or scraping. Notwithstanding the foregoing, neither special interest vehicles nor vehicles undergoing reasonably active restoration shall be considered an inoperable vehicle.

Private Bus Station shall mean any premise used for the loading and unloading of passengers on non-governmental motor driven buses. The premise may also include ticket purchasing facilities or the storage or parking of buses.

Shade Structure shall mean gazebos, arbors, or pergolas which are not attached to a principal structure but may be attached to an accessory structure. Shade structure shall not include carports.

Brewery shall mean an establishment where malt liquors are manufactured and production exceeds 60,000 barrels of malt liquor per year, but shall not mean a “brewpub” or “microbrewery”.

Brewpub shall mean an establishment that, as an accessory use to on-site food sales,

produces not more than 5000 barrels of handcrafted beer per year for on-site consumption. Such accessory use may occupy up to 30% of the gross floor area of the establishment.

Distillery shall mean a facility that manufactures alcoholic beverages by the distillation of fermented agricultural products, and including but not limited to whiskey, rum, brandy, and gin, including all dilutions and mixtures thereof.

Microbrewery shall mean an establishment where malt liquors are manufactured and packaged on or off premises, manufacturing more than 5,000 but less than 60,000 barrels of malt liquor on its licensed premises each calendar year.

Micro-winery shall mean a business that manufactures 5,000 to 10,000 cases of vinous liquors per year.

Tasting Room shall mean an area devoted to the sampling, and sales thereof, of wine or beer produced on or off premises.

Winery shall mean an establishment that manufactures vinous liquors which may include a restaurant or samples venue that sells the winery's products, including retail sales.

SECTION 4. Table V-1 of the Land Development Code is hereby amended as follows: (a)

- "Private bus station with repair" shall be added as a use by permit in the I-1 zone district and a use by right in the I-2 zone district.
- (b) "Private bus station without repair" shall be added as a use by permit in the C-3 zone district and a use by right in the I-1 and I-2 zone districts.
- (c) "Fly ash storage/distribution" shall be added as a use by permit in the I-2 and I-3 zone districts.
- (d) "Natural gas fuel sales" shall be added as a use by right in the C-3, I-1 and I-2 zone districts.
- (e) "Natural gas fuel sales for trucks" shall be added as a use by right in the I-1, I-2, and I-3 zone districts.
- (f) "Truck Stop" shall be amended by the addition of "natural gas sales" in parenthesis.
- (g) "Brewpub" shall be added as a use by right in the MU-1, C-1, C-2, C-3, and I-1 zone districts.
- (h) "Microbrewery" shall be added as a use by right in the MU-1, C-3, and I-1 zone

districts and a use by permit in the C-2 and I-2 zone districts.

- (i) “Brewery” shall be added as a use by right in the I-2 and I-3 zone districts and a use by permit in the I-1 zone district.
- (j) “Winery” shall be added as a use by right in the MU-1, C-3, and I-1 zone districts and as a use by permit in the C-2 and I-2 zone districts.
- (k) “Micro-winery” shall be added as a use by right in the MU-1, C-1, C-2, C-3, and I-1 zone districts.
- (l) “Distillery” shall be added as a use by right in the I-2 and I-3 zone districts and a use by permit in the I-1 zone district.
- (m) “Tasting room” shall be added as a use by right in the MU-1, C-1, C-2, C-3, and I-1 zone districts.
- (n) “concrete/cement batching plant (ready mix) and concrete products manufacturing” shall be amended to “concrete/cement batching plant (ready mix).”
- (o) “Concrete product manufacturing” shall be added as a use by right in the I-3 zone district.
- (p) The line for “Contractor shop and storage” shall be removed from the outdoor storage use classification. The line for “Contractor shop and storage” shall be amended to add an asterisk to the column for I-1,
- (q) The asterisk at the bottom of the table shall be amended to read “in accordance with Section 21-5254.”

SECTION 5. The rows of Table V-6 of the Land Development Code related to Flagpoles, Uncovered Decks, Covered Porches, and Storage Sheds are hereby amended to read as follows:

Flagpoles	<p>Poles attached to residential structures are exempt from these regulations.</p> <p>Residential districts pole must be setback from all property lines equal to height of the pole.</p> <p>Commercial & Industrial:</p> <ul style="list-style-type: none"> • 0-foot front setback • Setback from all other property lines equal to height of pole 	Pole height: Refer to 21-8205	Flag size: Refer to 21-8205
Uncovered Decks, Flatwork, patios	<p>Two-foot setback on side or rear property line.</p> <p>A 0-foot setback on side and rear property lines may be approved if a proper drainage mitigation plan has been approved by the city engineer</p>	Less than 30 inches above grade.	<p>Decks, poured, concrete, and asphalt require a building permit. If required by ADA, the structure may encroach into the setback.</p> <p>Ramps, steps, and landings (not to exceed 4 feet x 4 feet) that provide access from the sidewalk to the first floor building entries shall be excluded</p>

			from these setback requirements.
<p><u>Covered:</u> porches, decks, terraces and patios attached to principal structure, or uncovered if it is equal to or greater than 30 inches in height above grade</p>	<p>For front setback, see individual zone district regulations. If not specified, then front setback shall be the same as the principal structure.</p> <p>5-foot side setback.</p> <p>10-foot rear setback.</p>	<p>Height of covering cannot exceed roofline of a single-story home. 15-foot maximum height for homes greater than single-story.</p> <p>Decks with structural support from the ground may not exceed the height of the second story floor plate. (Garden level is not counted as first floor.)</p>	<p>Ramps, steps, and landings (not to exceed 4 feet x 4 feet) that provide access from the sidewalk to the first floor building entries shall be excluded from these setback requirements.</p> <p>The color, style and type of materials used in the construction of the exterior portion of the covered porch or patio shall be similar or complimentary to those of the principal structure. The use of prefabricated metal structures or pole barns, fiberglass, or similar panels is not allowed.</p> <p>The roofline, the type of roofing material, and the color of the roofing material shall be the same or similar to the principal structure. If the principal structure has a flat roof, the covered porch may be allowed to have a pitched roof if city staff determines that it is aesthetically harmonious with the principal structure.</p>
Storage sheds	<p>5-foot side setback. 5-foot rear setback. Prohibited in a front yard and side on street yard.</p> <p>Townhouses without legally subdivided outdoor space must meet the above requirements and also be set back at</p>	<p>200-sq.ft., total of all storage, in residential Districts (except townhouses).</p> <p>Townhouses: maximum shed size shall be 120 sq. ft.</p> <p>200-sq.ft., total of all storage, in</p>	<p>Metal containers and portable-on-demand storage containers are prohibited on property zoned or used for residential or commercial purposes.</p> <p>Storage sheds in commercial districts must incorporate the enclosed trash dumpster area as</p>

	least 2 feet from the side and rear boundaries of their allocated outdoor space.	commercial districts. 15-foot maximum height, except in an industrial district where height cannot exceed that of the existing principal structure.	part of the shed. The color, style, and materials must match the principal commercial structure.
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SECTION 6. Table V-6 of the Land Development Code is hereby amended by the addition of the following row:

Shade Structures	<p>For front setback, see individual zone district regulations. If not specified, then front setback shall be the same as the principal structure.</p> <p>5-foot side setback.</p> <p>10-foot rear setback.</p>	<ul style="list-style-type: none"> • 15-foot maximum height • Detached Shade Structures: <ul style="list-style-type: none"> o 200- sq. ft. maximum in residential zone districts. o 500-sq. ft. maximum in commercial and industrial zone districts. • <i>Shade structures attached to other accessory structures:</i> If a shade structure is attached to another accessory structure (shed, garage, etc.), the total square-footage of the shade structure shall not exceed 200 square-feet. 	<ul style="list-style-type: none"> • Same as garages. Shade structures shall be similar in color, style, and material as accessory structure to which it is attached. Fabric shade material shall be prohibited for a permanent structure. • No parking is allowed under a detached shade structure or a shade structure attached to an accessory structure.
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SECTION 7. Tables IV-9, IV-10, and IV-11 of the Land Development Code are hereby amended by the removal of the row titled “Maximum side yard setback (corner lot)” in each table.

SECTION 8. Table IV-~~644~~ of the Land Development Code is hereby amended as follows:

(a) The requirement column related to minimum lot frontage shall read: “20 feet (Note: Lot frontage may include frontage on a private road or drive or a platted easement.);” and

(b) The requirement column related to minimum front setbacks shall read: “10 feet. Unless the lot fronts onto a private road, private drive, or access easement, any garages must be set back at least 20 feet.”

SECTION 9. Except as specifically modified herein, the provisions of the Land Development Code shall remain unchanged and in full force and effect.

SECTION 10. This ordinance shall take effect February 15, ~~2015~~.

INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE
ORDERED THIS ___ DAY OF _____, 20__.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE
ORDERED THIS _____ DAY OF _____, 20__.

CITY OF COMMERCE CITY,
COLORADO

Sean Ford, Mayor

ATTEST:

Laura J. Bauer, CMC, City Clerk