

ORDINANCE NO. 1848

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AN ORDINANCE AMENDING VARIOUS SECTIONS OF THE COMMERCE CITY
REVISED MUNICIPAL CODE

WHEREAS, on June 21, 2010, the City Council passed on second reading the Commerce City Revised Municipal Code (the "New Code"), which went into effect on August 1, 2010; and

WHEREAS, subsequent to passage, it has been determined that certain adjustments to the New Code are necessary to allow it to operate as intended.

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 Commerce City Revised Municipal Code are hereby amended to read as stated:

Sec. 1-3005. Other Remedies.

- (1) Abatement authorized. Upon a plea or finding of guilt or liability for any violation of chapters 6 or 21 of this code, the administrative hearing officer acting pursuant to chapter 3 of this code or the municipal judge in a municipal court case shall have the authority to order the defendant or responsible party, as applicable, to correct or abate the violation within the time specified in such order. In the event the responsible party or defendant fails to correct or abate the violation within the time specified in the order, the city is authorized to enter upon the property at issue and correct or abate the violation. The city is further authorized to assess against the defendant or responsible party the costs of such correction or abatement in addition to any other cost, fee or fine authorized by this code.
- (2) Additional remedies. In the event any person violates, disobeys, omits, neglects, refuses or fails to comply with or resists the enforcement of any provision of this code, the charter, or any provision of any code or other regulation adopted by reference, the city may, in addition to imposing the penalties provided in section 1-3004, initiate action to prevent, enjoin, abate or remove such violation, failure or omission and, in addition, shall be entitled to recover any costs and charges incurred in undertaking such action.

Sec. 3-2100. Applicability and Scope.

This article applies to any alleged violation of chapters 9 and 21 of this code, any alleged violation of any provision of this code designated as a civil infraction, and any denial of an application for, or suspension or revocation of, any license governed by chapter 9 of this code.

Sec. 3-2101. Definitions.

- (2) *Hearing officer:* Pursuant to the provisions of this article, the individual appointed by the city council to preside over administrative hearings as designated by this code and to issue such rulings, orders and decisions as may be required thereby.
- (3) [Reserved.]
- (4) *Notice of violation:* A written notice provided to a responsible party identifying, among other things, the violations existing at, on, about or within the property identified in the notice.

- (7) *Protestant:* A person who submits a protest in accordance with the provisions of this article.
- (8) *Responsible party:* A person or entity charged with a violation of chapter 9 or 21 or any provision of this code designated as a civil infraction or, in the case of property violations, the property owner, the occupant or an individual or an entity who, acting as an agent for or in any other legal capacity on behalf of the owner, has authority over property subject to a notice of violation under this article, including, but not limited to, any mortgagee, loan servicer or loan holder, whether in trust or otherwise, and any employee, agent or representative thereof including real estate agents and brokers.

Sec. 3-2201. Duties and responsibilities of Hearing Officer.

- (1) All appeal hearings, as provided in section 9-1010 of this code, and all protest hearings, as provided in this article, shall be conducted by the hearing officer. In each case, the hearing officer is charged with performing all functions necessary to render a final determination and order.

- (4) Upon conclusion of an appeal hearing as provided in section 9-1010 of this code, the hearing officer shall determine whether the city has established, by a preponderance of the evidence, that it did not exceed its jurisdiction or abuse its discretion in denying an application or suspending or revoking a license.

Sec. 3-2202. Protest hearing – costs designated.

- (1) If, after a protest hearing is held, the responsible party is found liable for one (1) or more violations, the hearing officer shall give judgment in favor of the city and against the responsible party for the amount of costs and any fine imposed.
- (2) The costs assessed pursuant to subsection 1 above shall include:

Sec. 3-2302. Service of Notice of Violation.

- (1) The peace officer shall attempt to issue the notice of violation to the responsible party at the site of the violation. If the responsible party is not located at the site of the violation, a copy of the notice of violation may be left with any adult

person residing, if a residence, or working, if a business, at the site. If none, the notice of violation may be served by:

- (b) sending a copy of the notice of violation by first class mail to the last known address of the responsible party as reflected in the city's or county assessor's records; or

- (2) Service shall be deemed complete upon personal delivery, posting or three (3) days after the date of mailing, as applicable.
- (3) If it is determined that the responsible party is not the owner of the property upon which a violation is alleged to exist, a copy of the notice of violation shall be mailed, on the same date the notice of violation is served on the responsible party, to the owner of the property at such person's last known address as reflected in the city's or county assessor's records.

Sec. 3-2303. Abatement; Assessment of costs.

- (1) If, within the time allotted, the responsible party fails to request a protest hearing and, where applicable, fails to correct the violation, the city shall assess the applicable penalties, and the peace officer may issue a subsequent notice of violation or a summons for any continuing or existing violation(s).
- (2) The city may, in addition to assessing the applicable penalties, correct the violation(s), unless impractical, impossible or unlawful, and the responsible party shall be assessed the costs of abatement plus an administrative fee equal to fifteen percent (15%) of the costs of the abatement.
- (3) Costs assessed pursuant to this section shall be paid to the city within thirty (30) days after the city has mailed notice of the assessment by First Class U.S. mail to the responsible party; provided, however, that if the property is occupied by someone other than the owner of the property, the city shall mail such notice of assessment to both the occupant and the owner. Service shall be deemed complete upon depositing the notice of assessment in the United States Mail, postage prepaid.
 - (a) Failure to pay any such assessment within the thirty (30) day period shall cause the assessment to become a lien against the property identified in the notice of assessment, which lien shall have priority over all liens except general taxes and prior special assessments. Furthermore, at any time after such failure to pay the assessment, the same may be certified by the city to the county treasurer, as provided by state statute, to be placed upon the tax list for the current year and to be collected in the same manner as other taxes are collected, with a fifteen percent (15%) penalty added to defray the cost of collection.
 - (b) The responsible party and/or property owner may object to an assessment by filing a written notice of such objection with the city manager within fifteen (15) days of the date of service of the notice of the assessment. After reviewing the objection, the city manager will determine the reasonableness of the costs assessed and may reduce the assessment if he or she determines that extenuating circumstance(s) support the reduction.

- (c) Every assessment provided for herein shall, until paid, be a first lien upon the subject property in the amounts assessed and shall be superior to all other liens or claims against such property of whatever kind or nature, regardless of date, except any lien for general property taxes or special improvement district assessments.

Sec. 3-2304. Penalties.

- (1) The following minimum penalties are hereby established for violations prosecuted under this article; provided, however, that the minimum penalties for violations of any provision identified as a civil infraction in chapter 4 of this code shall be fifty percent (50%) of the amounts set forth in this section.

- (4) The failure of a responsible party to pay the penalties imposed within the time specified in any notice of assessment issued in accordance with this article, or in the enforcement order if a protest hearing was held, may result in the assessment of a late fee in an amount set by city council resolution, and the city manager may refer the matter for collection by whatever means are available to the city.
- (5) Any action or other process provided by law may be maintained by the city to recover or collect any amounts, including late fees, interest and administrative costs, owing under this article.

Sec. 3-2400. Protest; Docket fee.

- (1) A responsible party may object to the issuance of a notice of violation by submitting to the city a written protest as provided in this section.
- (2) The protest must be received by the city during business hours not later than the compliance date indicated on the notice of violation. Where no compliance date is indicated on the notice of violation, the protest must be received by the city not later than ten (10) days from the date of service indicated on the notice of violation. Should either such date fall on a day that city offices are closed, the applicable time limit shall be extended to include the next business day. Compliance with these time limits shall be a jurisdictional prerequisite to any protest brought under this article, and failure to comply herewith shall bar such protest.

- (4) The protest shall be accompanied by a docket fee in an amount set by city council resolution.
- (a) Payment of the docket fee at the time a protest is submitted shall be a jurisdictional prerequisite to any protest brought under this article, and failure to comply herewith shall bar any such protest.

- (5) If a protest is properly and timely submitted, the city shall neither take action to abate the violation(s) identified in the protest nor impose any penalty for such violation(s) except upon the occurrence of one (1) of the following:

Sec. 3-2401. Scheduling and notice.

- (1) Upon receipt of a protest in compliance with section 3-2400, the city shall schedule a protest hearing. Unless the hearing officer, at his or her sole discretion, allows an extension of time, the protest hearing shall be held within fifteen (15) calendar days of the compliance date indicated in the notice of violation or, where no such compliance date is indicated, within fifteen (15) days of the city's receipt of the protest.
- (2) At least seven (7) calendar days prior to the date of the protest hearing, the city shall provide written notice to the protestant of the date, time and location of the protest hearing. Notice shall be given personally or by first class mail.

Sec. 4-1001. Definitions.

- (13) *Household pet or pet animal:* Non-endangered species of dogs, cats, ferrets, non-predatory birds bred in captivity, fish, hermit crabs, snails, tarantulas, captive-bred domestic rabbits, domestic guinea pigs, domestic rats, domestic mice, gerbils, hamsters, chinchillas, African pygmy hedgehogs, Vietnamese pot-bellied pigs and nonpoisonous snakes, amphibians and reptiles less than three (3) feet in length measured from the tip of the nose to the tip of the tail when fully grown and any other species of animal that is sold or retained as a household pet but does not include goats, chickens, skunks, primates or any species of wild or exotic animals.

Sec. 4-1002. Violations and Penalties.

Unless specified otherwise herein as "unlawful," a violation of any provision of this chapter shall constitute a civil infraction punishable as provided in chapter 1 of this code.

Sec. 4-2005. Animals at large; damage to property.

- (2) It is unlawful for the owner of any animal to permit such animal, whether or not running at large, to destroy, damage or cause injury to any shrubbery, plants, flowers, grass, lawn, fence or other property whatsoever upon any public or private premises not owned or occupied by the owner of such animal.

Sec. 4-3002. Rabies reporting and examination.

- (3) Any animal that is known to have bitten or injured any person so as to cause an abrasion of the skin may be quarantined by the city and observed for a period of ten (10) days from the date of the bite or injury. If permitted by animal control

agent, the animal may be confined by its owner in accordance with the directions of the animal control agent in lieu of quarantine by the city. For the purposes of this section, neither confinement by the owner nor placement of the animal at a licensed boarding facility or licensed animal shelter for the purpose of quarantine shall be deemed or constitute impoundment subject to the requirements of section 4-4002 of this code.

Sec. 6-1003. Violations Designated as Civil Infractions.

Unless indicated otherwise, a violation of any provision of this chapter shall be deemed a civil infraction and, as such, may be prosecuted in the municipal court or through the city's administrative hearing process. In either event, the city shall be required to prove the violation only by a preponderance of the evidence except when a defendant is charged with committing multiple civil infractions, as that term is used in chapter 1 of this code, and incarceration is a possible penalty. In such event, the city shall be required to prove beyond a reasonable doubt that the violation occurred.

Sec. 6-1004. Abatement without Hearing; Assessment of Costs.

- (3) Recovery of expense of abatement. The actual costs of abatement, plus fifteen percent (15%) of such abatement costs, a minimum fine assessment of one hundred dollars (\$100.00) and other incidental costs of abatement, shall be assessed upon the lot, lots or tracts of land upon which such nuisance is abated.

Sec. 6-2000. Nuisance Declared.

- (1) Common law and statutory nuisances. Any nuisance defined or declared as such by state statute or case law (common law) is hereby declared a nuisance for purposes of this chapter. It shall be unlawful for any person to create any common law or statutory nuisance in the city or to permit a common law or statutory nuisance to occur or continue to occur on any property under such person's control. Further, it is unlawful for any person to permit a common law or statutory nuisance to occur in conjunction with any personal property under such person's control.
- (2) Specified nuisances. Any act, action, condition, situation, circumstance or state of being identified in this article as prohibited or unlawful is hereby declared a nuisance.

Sec. 6-2002. Defaced Property.

It is unlawful for any person to permit any property under such person's control to remain in a defaced condition for longer than fifteen (15) days when such defacement is visible to the public.

Sec. 6-2010. Public Health Nuisance.

- (1) Public health nuisance defined. Every act, thing or condition that is caused, created, maintained, operated, permitted, allowed, or continued on or through any property, real or personal, within the city that is harmful to health, safety, welfare or property of any of the inhabitants of the city is a public health nuisance and is hereby prohibited. Without limiting the generality of the foregoing, the following are hereby declared to be nuisances affecting public health:

- i) The depositing of petroleum products, automotive fluids or hazardous waste materials, as defined by state law, on or below the surface of the ground, in any manner, except on property designated by law for the disposal of such material by a person authorized to so use the property.

Sec. 6-2013. Unsafe Sidewalks and Rights-of-Way.

- (1) Hazards and obstructions.

- (a) It shall be unlawful for the owner or occupant of any building, property or lot in the city to fail to maintain the sidewalks adjacent to such property, including those on public rights-of-way, in a clean and repaired condition and free of hazards and obstructions, including, but not limited to, tree limbs, trash containers and sports equipment.
- (b) It shall be unlawful for the owner or occupant of any building, property or lot in the city to deposit, place or otherwise locate, or to allow the deposition, placement or location, upon any public right-of-way adjacent to such building property or lot any hazard or obstruction, including, but not limited to, tree limbs, trash containers, and sports equipment.

Sec. 6-2014. Parking on unapproved surface.

It shall be unlawful for any owner or occupant of a single family residence to park, place or store, or to allow the parking, placing or storing of, any motor vehicle, tractor or trailer on the property of such residence unless such motor vehicle, tractor or trailer is parked, placed or stored on a surface previously approved by the city; provided, however, that this prohibition shall not apply to a single family residence located on property zoned AG Agricultural District.

Sec. 8-4002. Violations Involving Underage Persons.

- (3) Service. It shall be unlawful for any licensee, or the agents, servers or employees thereof, to sell, serve, give away, dispose of, exchange, or deliver, or permit the

serving, giving, or procuring of any alcohol beverage to any person less than twenty-one (21) years of age.

Sec. 9-1006. License Term and Renewal.

- (1) General License: General licenses shall have an indefinite term. They shall be valid from the date the license is issued until revoked or suspended by the city or otherwise terminated by the city or the licensee. During the term of the license, licensees shall have a continuing duty to promptly notify the city in the event that any information that was required in the application changes in any way.
- (2) Specialty License Term. Unless otherwise specified, all specialty licenses granted pursuant to this chapter shall be for a term of one (1) year. The license year shall commence on the date the license is issued and shall expire at 12:00 midnight exactly 12 months from the date of issuance. Nothing in this chapter, including failure to timely renew a license, shall relieve the licensee from its continuing duties and obligations to pay sales and use tax.
- (3) Specialty License Renewal. No licensee may continue to operate its business after 30 days from the date the license year expires unless an application for renewal has been made on or before the thirtieth (30th) day from the date the license year expires. Any applicant who files an application for a renewal license after this deadline shall be required to pay the new license fee instead of the renewal license fee.

Sec. 9-3302. License Requirements and Authorizations.

- (4) If the location or one or more stops for which the application is being made is located on private property, the outdoor vendor shall provide the City with the written consent of such property owner, lessee or other person in legal control of such property.

Sec. 9-3401. Definitions.

- (2) *Class 1 entertainment establishment* means any entertainment establishment located within 2,000 feet of a residential zone district or any legally occupied residence, which provides any form of amplified entertainment except: (1) the playing of background music, including live performance, which is incidental, and neither primary nor significant, to the business operation; or (2) entertainment provided only by a music device.
- (3) *Class 2 entertainment establishment* means an entertainment establishment not meeting the definition of a Class 1 entertainment establishment.

Sec. 10-2100. Purpose; Scope

- (2) This article shall apply to the construction and maintenance of, and the placing of advertising on, public benches. Public bench sites with existing, valid permits or contracts shall continue to be maintained pursuant to the terms of such permit or contract. At the expiration of any permit or contract for a public bench or bench site, the city shall determine, in its sole discretion, whether to continue offering the site as a public bench for advertising or to designate the site as a bus shelter location.

Sec. 10-2102. Specifications.

- (3) Not more than two (2) public benches may be maintained at any one (1) location absent a written finding by the city manager that the public convenience requires more than two (2) public benches at such location.
- (4) Any public bench newly erected or installed pursuant to this article shall be located only at officially designated Regional Transportation District bus stops and shall be no closer than three feet (3') to the roadway edge. No public bench shall be maintained in any alley, or at any location where the distance from the face of the curb to the property line is less than ten feet (10'), unless the city manager makes a written finding that maintaining a public bench at such location is in the public interest.

- (6) Public benches shall not obstruct public walkways, sidewalks or pedestrian access to traffic control devices. No public bench shall be positioned or aligned in a manner that creates an obstruction to vision of traffic. Any public bench determined by the city manager to obstruct the vision of traffic shall be repositioned in a manner to eliminate the obstruction or removed by the permittee at the request of the city manager.

Sec. 10-2200. Permit required.

It is unlawful for any person to install, erect or maintain, or to place any advertisement on, any public bench within the city without first having secured a permit therefor as provided herein.

Sec. 10-2201. Permit application.

- (1) Application for a permit to erect, install, maintain or place any advertisement on any one (1) or more public benches within the city shall be made upon a form provided by the city. The application shall set forth the following information:

Sec. 10-2204. Insurance; Indemnification.

- (3) The applicant for a permit issued pursuant to this article hereby covenants and agrees to indemnify, save and hold harmless the city and its officers, employees and agents from any and all liability, loss, costs, charges, obligations, expenses, attorney fees, litigation, judgments, damages, claims and demands of any kind whatsoever arising from or out of the installation or maintenance of any public bench permitted under this article or any negligent act or omission or other tortious conduct of the permittee or its officers, employees or agents in the performance or nonperformance of the obligations under this article. The provisions set forth in this subsection shall survive the denial, suspension or revocation of the permit.

Sec. 10-2208. Expiration and renewal.

- (1) Permits issued pursuant to this article shall expire one (1) year from the date of issuance.
- (2) A permittee may apply for renewal of a public bench permit not later than thirty (30) days prior to expiration of the permit. The application shall be reviewed as provided in this article. In the event a permittee fails to renew a permit, the city shall have the authority to remove the public bench(es), or any advertising thereon, authorized by the permit.

Sec. 12-5010. Nuisance Party Prohibited.

- (1) It shall be unlawful for any owner, occupant, tenant, or other person having possessory control, individually or jointly with others, of any premises to sponsor, conduct, host, or permit a social gathering or party on the premises which is or becomes a public nuisance where such public nuisance is either the intentional result of, or reasonably anticipated by, the person or persons having such possessory control.
- (2) A social gathering or party shall be deemed to constitute a public nuisance when an open keg of beer is located in any yard adjacent to a street, on a front porch in a place visible to the public, or in any side yard of the premises upon which the social gathering takes place such that the open keg of beer is visible to members of the public standing on public streets, sidewalks, or on the grounds of other adjoining or nearby private properties. A social gathering or party shall also be deemed to constitute a public nuisance when, by reason of the conduct of persons in attendance, it results in one or more of the following violations of this code and such violation(s) occur at the site of the social gathering or on neighboring public or private property:
 - a) Assault;
 - b) Disorderly Conduct;
 - c) Obstruction of Public Ways;

- d) Damaging Property;
 - e) Bodily Waste
 - f) Trespass;
 - g) Littering;
 - h) Open Containers;
 - i) Menacing;
 - j) Harassment;
 - k) Interference with peace officers and firefighters;
 - l) False reporting;
 - m) Unlawful Procurement
 - n) Possession or consumption of alcohol;
 - o) Disturbing the peace; or
 - p) Unreasonable noise.
- (3) If a social gathering or party is declared to be a public nuisance by a peace officer, the peace officer may issue an order for all persons not domiciled at the site to disperse immediately. It shall be unlawful for any person to fail or refuse to obey and abide by such an order.

Sec. 12-6008. Prohibited possession of marijuana and drug paraphernalia.

- (1) It shall be unlawful for any person to possess or openly and publicly display, consume, or use two (2) ounces or less of marijuana.
- (2) It shall be unlawful for any person to knowingly possess drug paraphernalia. In determining whether an object is drug paraphernalia, the court may consider those factors enumerated and provided for by state law in addition to any other factors deemed relevant by the court.

Sec. 12-7002. Failure to Supervise.

It shall be unlawful for the parent, legal guardian, or any other adult having custody and control of a minor to fail to exercise reasonable care to restrain or prevent the minor from committing a violation of any ordinance contained in or adopted pursuant to this code, except violations of the model traffic code. Individuals who are convicted of, or who enter a plea of guilty or *nolo contendere* to, a violation of this section may be ordered to pay restitution to the victim of the misconduct of the minor.

Sec. 12-7006. Performing services for underage person.

It shall be unlawful for any person, whether for remuneration or not, to procure for any underage person any article or material which the underage person is forbidden by law to purchase. It shall be unlawful for any underage person to engage or use the services of any other person, whether for remuneration or not, to procure for such underage person any article or material which the underage person is forbidden by law to purchase.

Sec. 12-8003. Criminal Simulation.

It shall be unlawful for any person, with intent to defraud, to make or alter any object in such a manner that it appears to have an antiquity, rarity, source or authorship, ingredient or composition which it does not in fact have. It shall also be unlawful for any person, with knowledge of its true character and with intent to defraud, to utter, misrepresent or possess any object made or altered in violation of the first sentence of this section.

SECTION 2. The title of Chapter 10 of the Commerce City Revised Municipal Code is hereby amended to read as follows:

CHAPTER 10. STREETS, PUBLIC RIGHTS-OF-WAY AND STORM SEWERS

SECTION 3. A new Article III is hereby added to Chapter 10 of the Commerce City Revised Municipal Code as follows:

ARTICLE III. REGULATION OF DISCHARGES AND CONNECTIONS TO STORM SEWER SYSTEM

Sec. 10-3000. Purpose and applicability.

- (1) The purpose of this article, in conjunction with section 21-6330 of this code, is to provide for the health, safety and general welfare of the citizens of the City of Commerce City through the regulation of non-stormwater discharges to the storm drainage system by establishing methods for controlling the introduction of pollutants into the municipal separate storm sewer system in order to comply with requirements of the Colorado Discharge Permit System ("CDPS") permit process.
- (2) This article shall apply to all water and any other substances entering the MS4 generated on any developed and undeveloped lands unless explicitly exempted by the city manager.

Sec. 10-3001. Definitions.

Where a word, term or phrase used in this article is not defined in this section, it shall have the meaning ascribed to it under chapter 21 of this code. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning.

- (1) *Clean Water Act* means the Federal Water Pollution Control Act, 33 U.S.C. § 1251, *et seq.*, as amended from time to time.
- (2) *Construction activity* means activities subject to CDPS Construction Permits, where such activities result in any land disturbance, including, but not limited to, clearing, grubbing, grading, excavating and excavation.
- (3) *Hazardous materials* means any material, including any substance, waste or combination thereof, which, because of its quantity, concentration or physical, chemical or infectious characteristics, may cause or significantly contribute to a substantial present or potential hazard to human health, safety, property or the

environment when improperly treated, stored, transported, disposed of or otherwise managed.

- (4) *Illegal or Illicit discharge* means any direct or indirect non-stormwater discharge to the MS4.
- (5) *Illicit connection* means any drain or conveyance, whether on the surface or subsurface, which allows a non-permitted discharge to enter the MS4.
- (6) *Industrial activity* means an activity subject to CDPS Industrial Permits.
- (7) *Municipal separate storm sewer system* or *MS4* means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels or storm drains):
 - (a) owned or operated by the city;
 - (b) designed or used for collecting or conveying stormwater;
 - (c) which is not a combined sewer; and
 - (d) which is not part of a Publicly Owned Treatment Works.
- (8) *Person* means any individual, association, organization, partnership, firm, corporation or other entity recognized by law, including an authorized agent or representative.
- (9) *Stormwater* means any surface flow, runoff and drainage consisting entirely of water from any form of natural precipitation.

Sec. 10-3002. Illegal discharge.

- (1) Prohibition. Except as provided in subsection (2) of this section, it is unlawful for any person to discharge or cause to be discharged into the MS4 or any watercourse within the city any materials other than stormwater.
- (2) Exceptions. The following discharges are exempt from the prohibition set forth in subsection (1) of this section:
 - (a) Water line flushing or other potable water sources, landscape irrigation, diverted stream flow, rising ground water, ground water infiltration, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial vehicle washing, natural riparian habitat or wetland flows, swimming pools (if less than one ppm chlorine), fire fighting activities and any water not containing pollutants.
 - (b) Discharges specified in writing by the city manager as being necessary to protect public health and safety.
 - (c) Dye testing, with prior approval of the city manager.
 - (d) Discharges in accordance with a CDPS permit, waiver or order.

Sec. 10-3003. Illicit connection prohibited.

The construction, use, maintenance or continued existence of illicit connections is prohibited, including illicit connections made prior to the effective date of this article, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

Sec. 10-3004. Emergency suspension of discharge access.

- (1) The city may, without prior notice, suspend MS4 discharge access when necessary to prevent an actual or threatened discharge that presents or may present imminent and substantial danger to the environment, to the health or welfare of persons or to the MS4 or waters of the United States.
- (2) If the alleged violator fails to comply with a suspension order issued pursuant to this section, the city is authorized to take such action as deemed necessary to prevent or minimize danger to persons or damage to the MS4 or waters of the United States.

Sec. 10-3005. Additional monitoring.

The following provisions shall be in addition to, and shall supplement, the monitoring and inspection requirements and standards set forth in section 21-6330 of this code.

- (1) The city shall have the authority to set up on any permitted facility such devices as are necessary in the opinion of the city manager to conduct monitoring and/or sampling of the stormwater discharge of the permitted facility.
- (2) The city has the authority to require the discharger to install monitoring equipment as necessary. The discharger shall, at its sole expense, maintain at all times a facility's sampling and monitoring equipment in a safe and proper operating condition by.

Sec. 10-3006. Additional BMPs.

- (1) Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at such person's expense, structural and non-structural Best Management Practices ("BMPs"), in addition to the requirements of section 21-6330(3) of this code, to prevent the further discharge of pollutants to the MS4.
- (2) Compliance with all terms and conditions of a valid CDPS Permit authorizing the discharge of stormwater associated with industrial activity, to the extent practical, shall be deemed compliance with the provisions of this article. BMPs shall be part of the stormwater management plan necessary for compliance with the requirements of the CDPS Permit.

Sec. 10-3007. Watercourse protection.

Every owner, lessee, or licensee of property through which a watercourse passes shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation and other obstacles that would tend to pollute, contaminate or significantly retard the flow of water through the watercourse. In addition, such owner, lessee or licensee shall maintain existing privately owned structures within or adjacent to a watercourse so that such structures will not become a hazard to the use, function or physical integrity of the watercourse.

Sec. 10-3008. Notification of spills.

- (1) Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials that are resulting or may result in illegal discharges or pollutants discharging into

- stormwater, the MS4 or waters of the United States, such person shall take all necessary steps to ensure the discovery, containment and cleanup of such release.
- (2) In the event of a release of hazardous materials, such person shall notify the city manager in person or by phone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the city within three (3) business days of the telephone notice.
 - (3) If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for not less than three (3) years.

Sec. 10-3009. Enforcement.

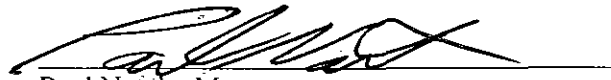
- (1) Any violation or failure to meet a requirement of this article is hereby deemed a civil infraction enforceable under the provisions of chapter 3, article II, of this code. In addition to requiring remediation and abatement, any notice of violation issued pursuant to this section may require the responsible party to perform, conduct or take part in any one or more of the following:
 - (a) Monitoring, analyses and reporting;
 - (b) Elimination of illicit connections or discharges;
 - (c) Restoration of affected property;
 - (d) Implementation of source control or treatment BMPs;
 - (e) Storm drain stenciling;
 - (f) Attendance at compliance workshops; and
 - (g) Waterway cleanup.
- (2) Failure of a responsible party to comply with a notice of violation issued pursuant to this section, including any requirement stated therein, shall subject such person to the penalties set forth in chapter 3, article II, of this code and may, in the city's discretion and upon prior written notice, result in termination of the responsible party's MS4 access.

SECTION 4. Any part of the Commerce City Revised Municipal Code not expressly amended hereby shall remain in full force and effect.

INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE ORDERED THIS 20th DAY OF DECEMBER, 2010.

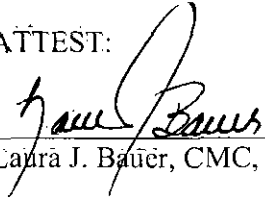
PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED THIS 10th DAY OF JANUARY, 2011.

CITY OF COMMERCE CITY, COLORADO



Paul Natale, Mayor

ATTEST:



Laura J. Bauer, CMC, City Clerk

