

ORDINANCE NO. 2739

AN ORDINANCE AMENDING THE RESIDENTIAL SPACE AND OCCUPANCY STANDARDS IN SECTIONS 5-302 AND 5-303 IN CHAPTER 5, ARTICLE XVIII OF THE COMMERCE CITY REVISED MUNICIPAL CODE

WHEREAS, the City of Commerce City (“City”) is a home rule municipality organized and existing pursuant to Article XX, Section 6 of the Colorado Constitution and its home rule charter;

WHEREAS, pursuant to the Charter of Commerce City (the “Charter”), the City has all legislative powers and functions of a home rule municipal government as reserved to it by the Colorado Constitution and laws of the State of Colorado;

WHEREAS, during the 2024 General Session, the General Assembly enacted House Bill 24-1007, which purported to be a matter of “mixed statewide and local concern,” which prohibited a local government from limiting the number of people who may live together in a single dwelling unit based on familial relationship;

WHEREAS, such regulations have traditionally been part of land use and zoning regulations, and Colorado courts have long recognized that land use and zoning are core matters of local concern;

WHEREAS, in matters of purely local concern, the charter and local legislation of a home rule city supersede conflicting state statutes;

WHEREAS, the underlying policy goal of HB24-1007 is to make it easier to share existing homes between occupants thereby increasing housing options and promoting affordable housing;

WHEREAS, without conceding that HB24-1007 applies to a home rule municipality, the City desires to amend the Commerce City Revised Municipal Code in an effort to carry out the policy goals of HB24-1007; and

WHEREAS, the City finds and determines that amending the Commerce City Revised Municipal Code is in the best interest of the public for the welfare of the residents of the City.

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

**SECTION 1. Findings.** The recitals to this ordinance are incorporated as findings of the City Council. This ordinance is found to be supported and authorized by law and in the best interests of and necessary for the protection of the health, safety, and welfare of the public.

**SECTION 2. Amendment.** Sections 5-302 and 5-303 of the Commerce City Revised Municipal Code are hereby amended as set forth in Exhibit A, with a clean version of the sections as amended included as Exhibit B.

**SECTION 3. Repealer.** All ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof, are hereby repealed to the extent of such inconsistency.

**SECTION 4. Effective Date.** This ordinance shall be effective pursuant to Section 5.3 of the Charter.

INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE ORDERED THIS 15TH DAY OF DECEMBER, 2025.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED THIS 5TH DAY OF JANUARY, 2026.

CITY OF COMMERCE CITY, COLORADO

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Steve J. Douglas, Mayor

ATTEST

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Stephen J. Ruger, City Clerk

## Exhibit A To Ordinance No. 2739

### EXPLANATORY NOTE:

~~RED STRIKEOUTS INDICATE MATERIAL DELETED FROM EXISTING LAW;~~

BLUE UNDERLINES INDICATE MATERIAL ADDED TO EXISTING LAW.

### Sec. 5-302. Standards.

~~(a) Space and occupancy standards for residential dwellings; conflicting provisions.~~

- ~~(i) It is unlawful for any person to occupy or let to another for occupancy any dwelling or dwelling unit that does not contain at least two hundred (200) square feet of floor space for each adult occupant thereof. Floor space shall be calculated on the basis of total enclosed space within the dwelling. No garage, basement or cellar space shall be considered floor space under this section unless such space is lawfully improved and finished for occupancy in compliance with all applicable state and local laws, codes and regulations in existence at the time of the improvement. Accessory buildings, including, but not limited to, storage sheds and temporary structures, shall not be used for occupancy.~~
- ~~(ii) To the extent the provisions of this section 5-302 conflict with any similar provisions of any International Code Council Code adopted by the city, the provisions of this section 5-302 shall apply.~~
- ~~(b) Maximum of three (3) unrelated adults per dwelling unit. Regardless of the amount of floor space contained within any dwelling unit, no more than two (2) adults not related to the head of household are permitted to occupy, in addition to the head of household, any single residential dwelling unit.~~
- ~~(e) Registered sex offenders—Standard and exception.~~
  - (i) *Standard:* Not more than one (1) adult required by law to register as sex offender is permitted to occupy any single dwelling unit except as provided for in subsection (ii) of this subsection 5-302(e) (a);
  - (ii) *Exception:* Up to two (2) adults required to register as sex offenders are permitted to occupy a single dwelling unit only where both such adults are related to the head of household.

### Sec. 5-303. - ~~Variances~~. Reserved.

- ~~(a) Any aggrieved person who believes an alleged violation of subsection 5-302(b) of this article imposes or will impose an unnecessary hardship, due to exceptional and extraordinary circumstances, may file an application for a variance from the enforcement of subsection 5-302(b) of this article.~~
  - ~~(a) Any aggrieved person who believes an alleged violation of subsection 5-302(b) of this article imposes or will impose an unnecessary hardship, due to exceptional and extraordinary circumstances, may file an application for a variance from the enforcement of subsection 5-302(b) of this article.~~
- ~~(b) An application for a variance pursuant to this section must be filed with the Department of Community Planning and Development Services before a violation of subsection 5-302(b) of this article occurs or within ten (10) days of notification of a violation of subsection 5-302(b) of this article, which notification may either be an administrative written notice from an authorized representative of the City of Commerce City or a summons to the municipal court for an alleged violation of subsection 5-302(b) of this article.~~
- ~~(c) The Department of Community Planning and Development Services shall review the application for a variance and determine whether the residential dwelling unit in which the applicant resides or intends to reside satisfies the requirements of subsection 5-302(a) of this article and, if so, the Department of Community Planning and Development Services shall refer the application for a variance for public hearing for review by the zoning board of adjustment created by chapter 21, section 21-524 of this Code.~~
  - ~~(c) The Department of Community Planning and Development Services shall review the application for a variance and determine whether the residential dwelling unit in which the applicant resides or intends to reside satisfies the requirements of subsection 5-302(a) of this article and, if so, the Department of Community~~

Planning and Development Services shall refer the application for a variance for public hearing for review by the zoning board of adjustment created by chapter 21, section 21-524 of this Code.

- (d) Prior to granting a variance from the enforcement of subsection 5-302(b) of this article, the zoning board of adjustment shall first find:
  - (1) That there will be unnecessary, exceptional and substantial hardship on the applicant if the provisions of subsection 5-302(b) of this article were strictly enforced; and (1) That there will be unnecessary, exceptional and substantial hardship on the applicant if the provisions of subsection 5-302(b) of this article were strictly enforced; and
  - (2) The variance, if authorized, will not substantially injure or adversely affect the surrounding area.
- (e) Financial hardship, in and of itself, shall not be a sufficient basis to grant a variance pursuant to this section.
- (f) No variance shall be granted from the requirements of enforcement of sections 5-302(a) or 5-302(c) of this article.

## **Exhibit B To Ordinance No. 2739**

Clean Version of Amendment

### **Sec. 5-302. Standards.**

(a) *Registered sex offenders—Standard and exception.*

- (i) *Standard:* Not more than one (1) adult required by law to register as sex offender is permitted to occupy any single dwelling unit except as provided for in subsection (ii) of this subsection 5-302(a);
- (ii) *Exception:* Up to two (2) adults required to register as sex offenders are permitted to occupy a single dwelling unit only where both such adults are related to the head of household.

### **Sec. 5-303. Reserved.**