

ORDINANCE NO. 2492

INTRODUCED BY: ALLEN-THOMAS, CHACON, DOUGLAS, FORD, HURST, HUSEMAN, KIM, MADERA, NOBLE

AN ORDINANCE REPEALING AND REPLACING CHAPTER 5, ARTICLE V OF THE COMMERCE CITY REVISED MUNICIPAL CODE TO UPDATE PROVISIONS FOR VIOLATIONS OF THE CITY OF COMMERCE CITY BUILDING CODE (C3BC)

WHEREAS, the purpose of this and related ordinances is to update the city's building code, adopt changes made in the various 2021 editions of the International Codes, apply city-specific revisions to the adopted codes, and to simplify, consolidate, and clarify the city's building code support functions such as appeals, violations, contractor licenses, fees and third-party services; and

WHEREAS, Article V, entitled "Violations," has been updated to align with the adoption of the 2021 C3BC. There are no substantive changes from the existing provisions.

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 necessary for the preservation of the public health, safety, and welfare and in the public interest.

SECTION 2. Amendments. Chapter 5, Article V of the Commerce City Revised Municipal Code is hereby repealed and replaced as set forth in Exhibit A.

SECTION 3. Repealer. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency.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 as provided in the City Charter.

INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE ORDERED THIS 17TH DAY OF APRIL, 2023.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED THIS 15TH DAY OF MAY, 2023.

CITY OF COMMERCE CITY, COLORADO

Benjamin A. Huseman, Mayor

ATTEST

Dylan A. Gibson, City Clerk

**CHAPTER 5 – BUILDINGS AND BUILDING REGULATIONS
ARTICLE V. VIOLATIONS**

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Sec. 5-5000. - Applicability and scope.

This article and article III of chapter I of this Code apply to all alleged civil or criminal violations of any provision of the City of Commerce City Building Code (C3BC), appendices and addenda adopted in connection with such codes, as adopted by the city and as may be amended.

Sec. 5-5001. - Definitions.

As used in this article, the following term shall have the following meaning:

Code official: The individual, and all staff operating under their supervision, charged with the direct overall administration and enforcement of the C3BC who have the necessary authority to do so, including but not limited to the individual appointed as the “building official” by the city manager and any fire marshal authorized to enforce the International Fire Code as adopted by the city.

Sec. 5-5002. - Parties responsible.

Individuals and entities who may be held responsible for violations of the C3BC in accordance with this article include 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 enforcement 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. 5-5003. - Notice and service; prohibition on tampering with signs.

- (a) Whenever the code official determines that there has been a violation of the C3BC or has grounds to believe that a violation has occurred, notice shall be given for the violation in the manner specified in this Code and other applicable law.
- (b) The notice prescribed in section 5-5003(a) shall contain the information required by the Colorado Municipal Court Rules, if a criminal summons and complaint is issued, or the information required by section 3-2301 of this Code, as that section currently exists and as may be amended, if a notice of violation is issued.
- (c) Notice shall be served in accordance with the Colorado Municipal Court Rules, if a criminal summons and complaint is issued, or in accordance with section 3-2302 of this Code, as that section currently exists and as may be amended, if a notice of violation is issued.
- (d) Signs, tags or seals posted or affixed by the code official shall not be mutilated, destroyed or tampered with or removed without authorization from the code official.

Sec. 5-5004. - Criminal penalties.

Any violation of the C3BC is punishable as a criminal misdemeanor in accordance with subsection 1-3003(a) of this Code. The city's municipal court shall have original jurisdiction to hear and determine all cases regarding criminal, decriminalized and civil violations and offenses under the C3BC. Nothing in this article shall be construed to require that any alleged violation of the C3BC be addressed through the process established in article II of chapter 3 of this Code as a condition precedent to the municipal court's exercise of jurisdiction over such violations and offenses.

Sec. 5-5005. - Civil penalties; administrative procedures applicable.

- (a) In addition to being punishable as a criminal misdemeanor, any violation of the C3BC is also punishable as a civil infraction pursuant to subsection 1-3003(c) of this Code. If the code official finds that a violation of any provision of the C3BC or of any permit, certificate, other approval or directive issued under the C3BC exists, the code official may, in addition to or as an alternative to criminal prosecution in the city's municipal court, issue a notice of violation and pursue the city's administrative enforcement process in accordance with article II of chapter 3 of this Code. Any person convicted of a civil infraction arising from a violation of any provision of the C3BC shall be subject to the penalties for civil infractions set forth in section 3-2304 of this Code.
- (b) It shall be a criminal misdemeanor for the owner of any dwelling unit or structure subject to a compliance order or a notice of violation issued pursuant to this article, having notice of such compliance order or notice of violation, to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner or the owner's authorized agent shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

Sec. 5-5006. - Other remedies.

Nothing in this article shall be construed to preclude the city from maintaining an action for damages, declaratory relief, specific performance, injunction or any other appropriate relief for any violation of any provision of this Code or any approval granted under this Code. Moreover, the imposition of the penalties prescribed in this article and otherwise applicable by law shall not preclude the city from instituting appropriate action to prevent unlawful construction, restrain, correct or abate a violation, prevent illegal occupancy of a building, structure or premises, or stop an illegal act, conduct, business or utilization of the installations on or about any premises.

Sec. 5-5007. - Stop work order; penalty.

- (a) Whenever the code official finds any work regulated by the C3BC 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.

- (b) The stop work order shall be in writing and shall be given to the owner of the property involved, the owner's authorized agent or the person performing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reasons for the order and the conditions under which the cited work will be permitted to resume.
- (c) When in the reasonable judgment of the code official or his or her designee, an emergency exists requiring a stop work order to issue immediately, the code official shall not be required to give a written notice prior to stopping the work.
- (d) Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be guilty of a criminal misdemeanor in accordance with subsection 1-3003(a) of this Code.

Any appeals of stop work orders shall be governed by section 5-21 of this Code.

****END OF EXHIBIT A****