

ORDINANCE NO. 2222

INTRODUCED BY: DAVIS, DOUGLAS, FORD, FRANK, GUARDIOLA, HURST,
HUSEMAN, MADERA, TETER

AN ORDINANCE REPEALING AND REENACTING DIVISION 7 OF ARTICLE IV OF CHAPTER 5 OF THE COMMERCE CITY REVISED MUNICIPAL CODE TO ADOPT THE *2018 INTERNATIONAL MECHANICAL CODE*, INCLUDING APPENDIX CHAPTER A, 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; 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the *2012 International Mechanical Code*, previously adopted and amended by the City pursuant to Ordinance No. 2093, be repealed and that in its place, the *2018 International Mechanical Code* be adopted, with local amendments as set forth in this Ordinance;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. Division 7 of article IV of chapter 5 of the Commerce City Revised Municipal Code, entitled “International Mechanical Code”—including sections 5-4702 and 5-4703 of the Commerce City Revised Municipal Code, entitled “Permit fees” and “Appeals,” respectively—is hereby repealed in its entirety. This repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to this Ordinance taking effect. Division 7 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 Mechanical Code, including Appendix Chapter A and all standards contained in such code and appendix, as amended herein, and shall read as follows:

ARTICLE IV. INTERNATIONAL CODES

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Division 7. International Mechanical Code

Sec. 5-4700. Adoption.

The City of Commerce City adopts the 2018 edition of the International Mechanical Code, including Appendix Chapter A, and the standards referenced in such code and appendix (the “IMC”), save and except such amendments as set

forth in this article. Copies of the IMC are on file in the city clerk's office and may be inspected during regular business hours.

Sec. 5-4701. Amendments.

The 2018 edition of the International Mechanical 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 Mechanical Code of the City of Commerce City, hereinafter referred to as "this code."

(b) Section 102.10, 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 Mechanical Inspection," 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 104.4, entitled “Right of entry,” is deleted in its entirety and the following is added in lieu thereof:

104.4 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 106.2, entitled “Permits not required,” is amended to read as follows:

106.2 Permits not required. The following work shall be exempt from the requirements for a permit:

1. Portable heating appliances;
2. Portable ventilation appliances and equipment;
3. Portable cooling units;
4. Steam, hot water or chilled water piping within any heating or cooling equipment or appliances regulated by this code;
5. The replacement of any minor part that does not alter the approval of equipment or an appliance or make such equipment or appliance unsafe;
6. Portable evaporative coolers;
7. Self-contained refrigeration systems that contain 10 pounds (4.5 kg) or less of refrigerant, or that are actuated by motors of 1 horsepower (0.75 kW) or less; and
8. Portable fuel cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid.

Exemption from the permit requirements of this code shall not be deemed to grant authorization for work to be done in violation of the provisions of this code or other laws or ordinances of this jurisdiction.

- (f) Section 106.4.5, entitled “Suspension or revocation of permit,” is amended to

read as follows:

106.4.5 Suspension or revocation of permit. The code official is authorized to suspend or revoke a permit issued under the provisions of this code whenever the permit is issued in error, or on the basis of incorrect, inaccurate or incomplete information, or is obtained by fraudulent means, or is in violation of any ordinance or regulation of any of the provisions of this code, other ordinances or laws of the City, state or federal government.

- (g) Section 106.5, entitled “Fees,” is deleted in its entirety and the following is added in lieu thereof:

106.5 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.

- (h) Sections 106.5.1, 106.5.2, and 106.5.3 are deleted.

- (i) Section 108, entitled “Violations,” is deleted in its entirety and the following is added in lieu thereof:

SECTION 108 – VIOLATIONS; STOP WORK; UNSAFE SYSTEMS

108.1 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 or entity shall erect, construct, alter, repair, remove, demolish or utilize a mechanical 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.

108.2 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.

108.3 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.

108.4 Unsafe mechanical systems. A mechanical system that is unsafe or that

constitutes a fire or health hazard, or is otherwise dangerous to human life is hereby declared unsafe. Use of a mechanical system regulated by this code constituting a hazard to health, safety or welfare by reason of inadequate maintenance, dilapidation, fire hazard, disaster, damage or abandonment is hereby declared an unsafe use. Such unsafe equipment and appliances are hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal.

108.4.1 Authority to condemn mechanical systems. Whenever the code official determines that any mechanical system, or portion thereof, regulated by this code has become hazardous to life, health, property or has become unsanitary, the code official shall order in writing that such system either be removed or restored to a safe 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 mechanical system after receiving such notice.

Where such mechanical 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.

108.4.2 Authority to order disconnection of energy sources. The code official shall have the authority to order disconnection of energy sources supplied to a building, structure or mechanical system regulated by this code where it is determined that the mechanical system or any portion thereof has become hazardous or unsafe. Written notice of such order to disconnect service and the causes therefor shall be given within 24 hours to the owner, the owner's authorized agent and occupant of such building, structure or premises, provided, however, that in cases of immediate danger to life or property, such disconnection shall be made immediately without such notice. Where energy sources are provided by a public utility, the code official shall immediately notify the serving utility in writing of the issuance of such order to disconnect.

108.4.3 Connection after order to disconnect. A person shall not make energy source connections to mechanical systems regulated by this code that have 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 mechanical systems.

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

- (j) Section 109, entitled "Means of Appeal," is deleted in its entirety and the following is added in lieu thereof:

SECTION 109 – APPEALS

109.1 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.

(k) Section 903.1, entitled “General,” is amended to read as follows:

SECTION 903 – FACTORY-BUILT FIREPLACES

903.1 General. Factory-built fireplaces shall be listed and labeled and shall be installed in accordance with the conditions of the listing. Factory-built fireplaces shall be tested in accordance with UL 127. Every new or altered solid fuel burning factory-built fireplace shall have permanently installed either:

1. Approved gas logs.
2. Other approved gas or alcohol specific appliances.
3. A phase III certified device as defined in the Colorado Department of Public health and Environment, Air Quality Control Commission, Regulation Number 4 “Sale and Installation of Wood-Burning Appliances and the Use of Certain Wood-Burning Appliances during High Pollution Days”, or other solid fuel burning device meeting the most stringent emission standards for wood stoves established under state statute and/or regulations promulgated by the Colorado Air Quality Control Commission existing at the time of installation of the factory-built fireplace, as demonstrated by a test by an Environmental Protection Agency accredited laboratory, and which is safety tested to Underwriter's Laboratory standards.

(l) Section 903.3, entitled “Unvented gas log heaters,” is amended to read as follows:

903.3 Unvented gas log heaters. An unvented gas log heater shall not be installed in a factory-built fireplace.

SECTION 2. The recitals to this Ordinance are incorporated as findings of the City Council.

SECTION 3. Any person or entity who violates, disobeys, omits, neglects, refuses, or fails to comply with or resists the enforcement of the IMC, as amended by this Ordinance, shall be subject to the applicable enforcement and remedy provisions contained in the IMC 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 7TH DAY OF OCTOBER 2019.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED
THIS 4TH DAY OF NOVEMBER 2019.

CITY OF COMMERCE CITY, COLORADO

Sean Ford, Mayor

ATTEST

Laura J. Bauer, MMC, City Clerk