

ORDINANCE NO. 2391

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

SECOND AND FINAL READING OF AN ORDINANCE AMENDING THE LAND DEVELOPMENT CODE OF THE CITY OF COMMERCE CITY BY UPDATING THE DRAINAGE IMPACT FEES BASED ON THE RECENT IMPACT FEE STUDY

WHEREAS, the City of Commerce City initially conducted four drainage impact fee studies for each basin in the City from 2002 to 2006 and has not updated such studies since 2006;

WHEREAS, since 2000 the City's population has nearly tripled from 21,084 people to 62,400 people thereby placing large demands on the City's drainage infrastructure, particularly in the Northern Range;

WHEREAS, with the increase in capital costs over time, the current fees are not adequate to construct capacity-expanding drainage projects;

WHEREAS, the City desires to internalize part of the fee costs for commercial development in commercial districts in order to promote such development, which will not increase or effect in any way other fee amounts in the City;

WHEREAS, a drainage impact fee report entitled "City of Commerce City Drainage Impact Fee Study" was completed by RESPEC in April 2022 and is on file with the office of Public Works of the City (the "Drainage Impact Fee Study");

WHEREAS, the Drainage Impact Fee Study is considered the best available drainage planning information within the City limits;

WHEREAS, impact fees are one-time payments imposed on new development that must be used solely to fund growth-related capital projects;

WHEREAS, an impact fee represents new growth's proportionate share of capital facility needs;

WHEREAS, pursuant to C.R.S. § 29-20-104.5, impact fees may only be used for capital improvements, not operating or maintenance costs or to repair or correct existing deficiencies in existing infrastructure, and the capital improvements must have a useful life of at least five years; and

WHEREAS, pursuant to C.R.S. § 29-20-104.5, impact fees must be legislatively adopted at a level no greater than necessary to defray impacts generally applicable to a broad class of property.

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

SECTION 1. Section 21-9240 – Drainage Fees of Article IX, Division 2 of the Commerce City Land Development Code is hereby repealed in its entirety and reenacted in the form attached hereto.

SECTION 2. 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 3. If this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one, or part, or parts be declared unconstitutional or invalid.

SECTION 4. The City Council finds that the adoption of this Ordinance is necessary for the protection of the public health, safety and welfare.

SECTION 5. This Ordinance shall take on May 1, 2023.

INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE ORDERED
THIS 6TH DAY OF FEBRUARY, 2023.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED
THIS 6TH DAY OF MARCH, 2023.

CITY OF COMMERCE CITY, COLORADO

Benjamin A. Huseman, Mayor

ATTEST

Dylan A. Gibson, City Clerk

ARTICLE IX. – DEVELOPMENT FEES

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DIVISION 2. – DEVELOPMENT FEES ASSESSED

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Sec. 21-9240. – Drainage Fees.

(1) **Applicability.** All construction requiring issuance of a building permit in the basin areas described in this Section shall pay a drainage fee in accordance with the provisions of this Section unless specifically exempted below.

- (a) First Creek Drainage Basin.
- (b) Second Creek Drainage Basin.
- (c) Third Creek Drainage Basin.
- (d) Henderson Creek Drainage Basin.
- (e) Irondale Gulch Drainage Basin.

(f) **Exemptions.** Drainage fees shall not be assessed against land dedicated for school sites, City parks and City owned open space, flood plain areas, the Tower Road Landfill (F.K.A. BFI Landfill) area and such other construction as may be determined by the City to not contribute to the need for the regional drainage improvements provided for in this Article.

(2) **Fee Schedule.**

(a) The fee schedule shall be established annually by City Council resolution and shall be based on the Drainage Impact Fee Study and adjustments for inflation.

(b) Fee amounts shall be displayed on the City Website.

(3) **Fee Adjustment for Commercial Districts.** The applicable drainage impact fee shall be half of the calculated fee required by this Section for new commercial developments in the C-1, C-2, and C-3 districts. The remainder of the costs shall be borne by the City.

(4) **Payment.** Drainage fees shall be paid to the City at the time of issuance of a building permit for the development or grading permit for roadway development. The fee may be computed separately for each building and grading permit.

(5) **Reimbursement.** Credits toward or from payment of the Regional Drainage Improvement Fee shall be given to developers who construct and pay for regional drainage improvements for which the Regional Drainage Improvement Fees are otherwise required by this Section provided that such regional drainage improvements are first authorized by the City, constructed in accordance with plans approved by the City and after construction, are accepted by the City.