

ORDINANCE NO. 2390

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

AN ORDINANCE AMENDING THE LAND DEVELOPMENT CODE OF THE CITY OF COMMERCE CITY BY UPDATING THE ROAD IMPACT FEES BASED OFF RECENT STUDIES OF THE SAME.

WHEREAS, the City of Commerce City Road Impact Fee study was originally completed on June 11, 1999, and has not been updated since the original adoption on August 21, 2000;

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 roadway 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 roadway 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 road impact fee report entitled "City of Commerce City 2021 Road Impact Fee Update" was completed by Michael Baker International in April 2022 and is on file with the office of Public Works of the City (the "Road Impact Fee Study");

WHEREAS, the Road Impact Fee Study is considered the best available roadway 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1.** Section 21-9220 – Road Impact Fees of Article IX, Division 2 of the Commerce City Land Development Code is hereby repealed in its entirety and reenacted in the form attached hereto.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.** The following definitions shall be added in alphabetical order to Article IX, Division 2 of the Commerce City Land Development Code.

*Average Trip Length* shall mean the average length in miles of trips on the Major Road System of the Northern Range and the Core City.

*Capacity* shall mean, as used in the context of road impact fees, the maximum number of vehicles that have a reasonable expectation of passing over a given section of a road during a given time period, under prevailing traffic conditions, expressed in terms of vehicles per hour. Capacity is measured in this Chapter and the 2021 Road Impact Fee Study during the evening peak hour.

*Existing Traffic-Generating Development* shall mean the most intense use of land within the twelve (12) months prior to the time of commencement of Traffic-Generating Development.

*Level of Service (LOS)* shall mean a qualitative measure describing operational conditions, from “A” (best) to “F” (worst), within a traffic stream or at intersections, which is quantified for road segments by determination of a volume to capacity ratio (V/C), which is a measurement of the amount of capacity of a road which is being utilized by traffic.

*Major Road System* shall mean all City-owned arterial roads in the Northern Range and Core City, which excludes interstates, state and federal highways, collector roads and local streets.

*Non-Site Related Improvements* shall mean road capital improvements, excluding right-of-way dedications, for roads on the major road system in the Northern Range and Core City that are listed in the 2021 Road Impact Fee Study and that are not site-related improvements.

*Percent New Trips Factor* means the percentage of peak hour trips that a proposed use will generate that constitutes new or additional trips added to the major road system in the Northern Range and Core City. Those trips that do not represent additional trip ends shall not be counted as new or additional trips. Pass-by trips and diverted-link trips do not constitute new trips.

*Regional Drainage Improvements* shall mean those improvements identified in the masterplans and reports identified in Section 3.2 of the City of Commerce City - Drainage Impact Fee Study, prepared by RESPEC dated April 15, 2022.

*Road Capital Improvement* shall mean include transportation planning of, preliminary engineering, engineering design studies, land surveys, alignment studies, engineering, permitting, and construction of all necessary features for any road construction project on an arterial road on the major road system, undertaken to accommodate traffic resulting from new traffic-generating land development activity. Road capital improvements shall include but not be limited to: (a) construction of new through lanes, (b) construction of new bridges, (c) construction of new drainage facilities in conjunction with new road construction, (d) purchase and installation of traffic signals, including new and upgraded signalization, (e) construction of curbs, gutters, sidewalks, medians and shoulders, (f) the construction of turn lanes at intersections, and (g) the widening of existing roads.

*Traffic-Generating Development* shall mean any development that increases the volume of vehicular traffic generated in a prescribed area, which can be directly attributed to a particular development.

*Trip* shall mean a one-way movement of vehicular travel from an origin (one trip end) to a destination (the other trip end).

*Vehicle Miles of Travel* shall mean the combination of the number of vehicles traveling during a given time period and the distance in miles that they travel.

**SECTION 3.** 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 including previous adoptions of any such resolution covering the same.

**SECTION 4.** 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 5.** The City Council finds that the adoption of this Ordinance is necessary for the protection of the public health, safety and welfare.

**SECTION 6.** This Ordinance shall take effect on May 1, 2023 after publication following adoption.

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

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Benjamin A. Huseman, Mayor

ATTEST

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Dylan A. Gibson, City Clerk

**ARTICLE IX. – DEVELOPMENT FEES**

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**DIVISION 2. – DEVELOPMENT FEES ASSESSED**

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**Sec. 21-9220. – Road Impact Fees.**

(1) Applicability.

(a) This Chapter shall apply to all lands within the incorporated jurisdiction of Commerce City as amended by future annexations and generally described herein as the Northern Range and Core City areas. The Northern Range is defined as areas of the City located north of Rocky Mountain National Arsenal Wildlife Refuge boundary and City and County of Denver boundary, south of Brighton boundary, east of the South Platte River, and west of Watkins Road. The Core City is defined as areas of the City located north of the City and County of Denver boundary, south of 80th Avenue, east of South Platte River, and west of Rocky Mountain National Arsenal Wildlife Refuge boundary.

(b) All lands in the Northern Range and the Core City that are to be developed or undergoing a change in use shall be subject to the provisions of this Section unless explicitly exempted otherwise in this Section.

(c) Exemptions. The following are exempt from this Section:

(i) Development that will not generate additional vehicular trips as demonstrated by the applicant to the City’s satisfaction.

(ii) Alteration or expansion of an existing building where no additional units are created and where no additional vehicular trips will be generated over those produced by the existing use as demonstrated by the applicant to the City’s satisfaction.

(iii) Construction of accessory buildings or structures which will not generate additional vehicular trips over those produced by the principal building or use of the land as demonstrated by the applicant to the City’s satisfaction.

(iv) Replacement of a wholly or partially destroyed building or structure with a new building or structure of the same size and use provided that no additional vehicular trips will be generated over those produced by the original land use as demonstrated by the applicant to the City’s satisfaction.

(2) Fee Schedule.

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

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

(3) Independent Fee Calculation Study.

(a) The road impact fee may be computed by the use of an independent fee calculation study upon submittal of an application by the applicant or, in the event that the particular development is not listed on the fee schedule or the nature, timing, or location of the proposed development makes it likely to generate impacts costing substantially more to mitigate than the amount of the fee that would be generated by the use of the fee schedule, election of the City. The party requesting the study shall be responsible for the costs associated with the study. In addition, if the developer applies for the independent fee calculation study, the developer shall be required to pay an application fee as set by City Council.

(b) The independent fee calculation study shall use the following formula to calculate the fee required.

**Independent Fee Calculation Study Formula**

$$\text{FEE} = \text{VMT} \times \text{NET COST/VMT}$$

$$\text{VMT} = \text{TRIPS} \times \% \text{ NEW} \times \text{LENGTH} \div 2$$

$$\text{NET COST/VMT} = \text{COST/VMT} - \text{CREDIT/VMT}$$

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Where:

VMT — Vehicle-miles of travel placed by the development on the major road system during the PM peak hour

TRIPS — Peak hour trip ends during PM peak of adjacent street traffic, from ITE Trip Generation Manual or other acceptable method approved by C3

% NEW — Percent of trips that are primary trips, as opposed to pass-by or diverted-link trips

LENGTH — Average length of a trip on major road system (as outlined in Figure 8 of the 2021 Road Impact Fee Report)

÷ 2 — Avoids double-counting trips for origin and destination

COST/VMT — Average cost to create a new vehicle-mile of capacity (VMC) based on planned arterial improvements

CREDIT/VMT — Revenue credit per VMT, based on estimated state/federal funding for City arterial improvements in service area over 20 years divided by total existing arterial VMT

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(c) Calculations. The fee calculations shall be based on data, information, or assumptions contained in this Section or independent sources, provided that:

(i) The independent source is an accepted standard source of transportation engineering or planning data or information; or the independent source is a local study on trip characteristics carried out by a qualified traffic planner or engineer pursuant to an accepted methodology of transportation planning or engineering; and

(ii) The percent of new trips factor and average trip length used in the independent fee calculation study, if different from those contained in the Road Impact Fee Study for the same land use type, shall be based on actual surveys conducted in Commerce City.

(d) Approval. If the independent fee calculation study satisfies the requirements of this Section, the fee determined in the independent fee calculation study shall be deemed the fee due and owing for the proposed traffic-generating development. The adjustment shall be set forth in a fee agreement. If the independent fee calculation study fails to satisfy the requirements of this Section, the fee applied shall be that fee established by City Council for the traffic-generating development.

(4) Payment. Road impact fees shall be paid to the City at the time of issuance of a building permit for the development. The fee shall be computed separately for each building permit.

(5) Reimbursement.

(a) Any person subject to the road impact fee may apply for reimbursement up to but not exceeding the full obligation for impact fees due pursuant to the provisions of this Section, for any contribution, payment, or construction accepted and received by the City for any non-site-related road capital improvements on the major road system that are identified in the Road Impact Fee Study.

(b) No reimbursements shall be provided for land dedication or for site-related improvements or for improvements to the major road system not specifically identified in the Road Impact Fee Study.

(c) Reimbursement shall be in an amount equal to the fair market value of the construction at the time of its completion, or the value of the contribution or payment at the time it is made to the City. Reimbursements shall be transferable in the same development but shall not be transferable for reimbursement for impact fees required to be paid for other public facilities

(6) Road Districts. Impact fee funds shall be spent for building and improving roads within the benefit district in which the development that caused the road impact fee is located. Together, the road benefit districts cover all incorporated areas of the City. Each district is generally described below and further depicted in the Benefit Districts Map on the City website:

(a) Northern Range Benefit District 1 is the area of the Northern Range west of Highway 2 and north of 80th Avenue.

(b) Northern Range Benefit District 2 is the area of the Northern Range between Highway 2 and the boundary generally defined by Piccadilly Road.

(c) Northern Range Benefit District 3 is the area of the Northern Range east of the boundary generally defined by Piccadilly Road.

(d) Core City Benefit District is the area of the City located north of City and County of Denver boundary, south of 80th Avenue, east of South Platte River, and west of Rocky Mountain National Arsenal Wildlife Refuge boundary.

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