

ORDINANCE NO. 2502

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

AN ORDINANCE AMENDING THE LAND DEVELOPMENT CODE OF THE CITY OF COMMERCE CITY BY UPDATING THE PUBLIC PARK FEE BASED OFF RECENT STUDIES OF THE SAME.

WHEREAS, the City of Commerce City has not conducted an impact fee study to assess fee needs since 2000;

WHEREAS, since 2000 the City's population has nearly tripled from 21,084 people to 62,400 people and is projected to continue rising exponentially thereby placing large demands on the City's public park facilities;

WHEREAS, the City requires an adjustment to the current public park fee in order to adequately serve new developments with public park facilities;

WHEREAS, the City desires to implement fees in a phased approach in order to move closer to cost recovery;

WHEREAS, an impact fee report entitled "2022 Impact Fee Study" was completed by Willdan Financial Services from December 2021 until November of 2022 and is on file with the of City Manager's Office of the City (the "2022 Impact Fee Study");

WHEREAS, the 2022 Impact Fee Study, in part, detailed the maximum justifiable fee to be imposed on new developments for costs associated with new capital improvements for public park facilities;

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. 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. Repeal and Replace. Section 21-9210 of the Commerce City Land Development Code is hereby repealed in its entirety and reenacted in the form attached hereto as Exhibit A.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 including previous adoptions of any such resolution covering the same.

SECTION 4. Savings Clause. 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. Effective Date. This Ordinance shall take effect 30 days after publication following adoption.

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

Exhibit A to Ordinance 2502

ARTICLE IX. – DEVELOPMENT FEES

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DIVISION 2. – DEVELOPMENT FEES ASSESSED

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Sec. 21-9210. – Public Parks and Recreation Fees.

(1) **Applicability.** The public parks and recreation fee shall apply to residential development on each newly subdivided lot in the City and any existing subdivided lot that is being redeveloped with a new use that increases the residential use intensity or density associated with the property. This includes the entirety of any mixed-use development with any permitted residential use or residential development.

(2) **Fee Schedule.**

(a) The fee schedule shall be established annually by City Council resolution and shall be based on a public safety impact fee study and adjustments for inflation.

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

(3) **Methods of Satisfaction.** The City will determine whether a land dedication or a fee is required based upon all relevant factors associated with the development and in accordance with the City's parks and recreation master plans.

(a) **Dedication of Land.**

(i) All land dedicated to the City must possess suitable access and shall be of a location, size, shape, and topography suitable for development into active recreational areas without significant earthmoving, unless otherwise approved by the City. The City shall have the option to accept as part of the dedication requirement major floodplains, narrow strips to provide trail connections from one major recreational or park area to another, or other undevelopable area suitable for open space.

(ii) The applicant shall dedicate to the City land for recreation purposes in locations designated in the parks and recreation master plan or otherwise where the dedications are approved by the City Manager.

(iii) The dedicated area shall be shown and marked on the plat "Dedicated for Public Use."

(b) Fee-in-Lieu. Where the development is small and there are no planned parks, trails, or open space per the park and recreation master plan, the City shall require a cash contribution in lieu of the land dedication.

(c) Combination of Land and Fee. A combination of land dedication and fee-in-lieu may be accepted provided the total value of the land dedication and parks fee is equivalent to the value of the fee schedule.

(4) Credits.

(a) If, at the time of annexation of the land on which a development is proposed, the developer or a predecessor in interest dedicated lands to the City for public purposes, the land dedication requirements of this section shall be reduced by the number of acres dedicated at the time of annexation.

(b) If the applicant constructs or agrees to construct portions of public parks, trails, and recreation facilities, the cost of those improvements may be deducted from the fee amount, as approved by the City.

(5) Public Trails.

(a) Dedication and Construction. The City may require an easement over, or the dedication of land lying within the boundaries of, a development to provide for public trails which are referenced in or depicted on the City's parks and recreation master plans.

(b) Credit Towards Park and Recreation Fee.

(i) Land dedications accepted by the City for trails referenced in or depicted on the City's parks and recreation master plans may be credited against the park and recreation fee requirements of the development.

(ii) Land dedications accepted by the City for trails not referenced or depicted on the City's parks and recreation master plans may, in the City's discretion, be credited, in whole or in part, against the park and recreation fee requirements of the development.

(iii) No credit shall be given for any sidewalks or trails within street rights-of-way or on land within the development required to be dedicated for purposes other than park or trail use.

(6) Collection. Park and recreation fees or dedications shall be paid or made to the City at the time of final subdivision plat approval or issuance of a new building permit,

whichever occurs first, or as detailed in an annexation agreement or development agreement between the City and developer.