



STAFF REPORT

Planning Commission

ORDINANCE #2146

PC Date: October 3, 2017

Case Planner: Robert Sheesley/Steve Timms

CC Date: October 16, 2017

Location: City-Wide

Applicant: City of Commerce City

Address: 7887 East 60th Avenue, Commerce City, CO 80022

Case Summary

Request: Commerce City is requesting to amend Article IX of the LDC to enact a new impact fee to support capital facility needs for fire and emergency services to provide service to new development.

Project Description: The proposed ordinance establishes a new development fee for new structures within the Greater Brighton Fire Protection District and the South Adams Fire Protection District pursuant to legislation enacted in 2016. The fee is intended to fund capital facilities.

Staff Recommendation: Approval

Attachments for Review: *Checked if applicable to case.*

☒ Proposed Language of Amendment.

Background Information

In 2016, the Colorado General Assembly enacted HB17-1088 (attached) authorizing local governments to impose a development fee on new development to fund expenditures by the local government or a fire and emergency services provider relative to capital facilities expenditures by the government or provider to serve that development. See C.R.S. 29-20-104.5. The imposition of such a development fee is the decision of the local government. The local government and fire and emergency services provider must enter an intergovernmental fee to define the fee and details of collection and remittance.

Request and Analysis

Two of the fire protection districts serving the City, Greater Brighton Fire Protection District and South Adams Fire Protection District, have submitted studies to the City and made presentations to the City Council at study sessions. Those studies are attached. City Council considered the proposed fee and related intergovernmental agreement at a special meeting on September 11.

Development fees are a commonly used method of collecting a proportional share of funds from new development for infrastructure improvements and/or other public facilities. With rare exceptions, development impact fees are one-time funds, restricted to funding capital costs for new facilities or upgrades to existing facilities, and are not used for annual operations or maintenance. Impact fees may only be charged to new development. Pursuant to federal and state law, impact fees require a “nexus” or linkage between fees charged, the impacts of new development, the benefit of facilities needed to mitigate such impacts, and the proportional cost allocation among different fee categories. Impact fees must be adopted by City Council by ordinance, must be generally applicable to a broad class of property, and must be intended to defray the projected impacts on capital facilities caused by proposed development.

Greater Brighton proposed a development fee in the following maximum amounts, supported by its study, to defray the impacts of new development as follows: \$.43 per square foot for nonresidential development; \$688 per dwelling unit for single family residential development; and \$550 per dwelling unit for multi-family residential development;

South Adams proposed a development fee in the following maximum amounts, supported by its study, to defray the impacts of new development as follows: \$.46 per square foot for nonresidential development; \$732 per dwelling unit for single family residential development; and \$337 per dwelling unit for multi-family residential development (reduced to \$250.00 per dwelling unit as proposed by South Adams);

Proposed Ordinance: City staff has prepared a draft ordinance to amend Division 2 of Article IX of the Land Development Code) to add a new Section 21-9250 enacting the development fee and sets the fee at the maximum amounts proposed by the respective districts. The amount of the fee may be adjusted by Council when the ordinance is considered.

- (1) Where the fee applies: The fire and emergency services fee will be assessed on new structures requiring a certificate of occupancy within either fire district except:

- a. When the new structure replaces an existing structure on the site and does not result in an increase in the density or intensity of use on the property;
 - b. For low- or moderate-income housing dwelling units, provided such dwelling units are intended to be occupied or owned, as evidenced by deed restrictions for units for sale or income qualifications existing for a period of at least ten (10) years for units for rent, by individuals or families whose income is: for low-income housing, sixty percent (60%) or less of area median income; for moderate-income housing, eighty percent (80%) or less of area median income;
 - c. For structures west of the Central Park Boulevard and south of 80th Avenue;
 - d. For structures constructed by or for a governmental or quasi-governmental entity or service.
- (2) Amount of Fee: Fees may be paid through a money payment or in-kind contribution and will be collected by the applicable fire and emergency services provider at the time of building permit issuance. Council may consider modifications to the ordinance, including the exclusion of certain geographical areas and modification of the fee amounts.

Fire and Emergency Services Provider	Non-residential	Single-Family Residential (including modular homes)	Multi-Family Residential (including modular homes)
South Adams County Fire Protection District	\$.46 per square foot	\$732	\$250
Greater Brighton Fire Protection District	\$.43 per square foot	\$688	\$550

An intergovernmental agreement with each district is currently being negotiated by City staff with direction from the City Council. The agreement is intended to be considered at second reading of the ordinance.

Development Review Team Recommendation

Based upon the analysis above, the Development Review Team recommends that the Planning Commission forward the requested amendments to the LDC to the City Council with a recommendation of approval. Staff is prepared to discuss alternative recommendations for implementing the proposed fee.

Recommended Motion

To recommend approval:

I move that the Planning Commission recommend that City Council approve the proposed ordinance #2146 amending the Commerce City Land Development Code and enacting and authorizing the collection of an impact fee for fire and emergency services.

Alternative Motions

To recommend approval subject to condition(s):

I move that the Planning Commission recommend that City Council approve Ordinance #2146 subject to the following modifications:

Insert proposed modifications

To recommend denial:

I move that the Planning Commission recommend that City Council not approve Ordinance #2146 for the following reasons

List the reasons not met