

ORDINANCE NO. 2448

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 THE ADDITION OF A GENERAL GOVERNMENT FEE ON NEW DEVELOPMENT 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 general government facilities;

WHEREAS, the City requires a general government fee to be imposed on new development in order to adequately serve new developments with general government 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 general government 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. Amendment.** A new Section 21-9280 entitled General Government Fees shall be added to Article IX, Division 2 of the Commerce City Land Development Code 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

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Benjamin A. Huseman, Mayor

ATTEST

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Dylan A. Gibson, City Clerk

**EXHIBIT A to Ordinance 2448**

**ARTICLE IX. – DEVELOPMENT FEES**

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**DIVISION 2. – DEVELOPMENT FEES ASSESSED**

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**Sec. 21-9280. – General Government Fees.**

- (1) Applicability. The general government fee shall apply to all new development located within the City and shall be collected prior to building permit issuance.
- (2) Fee Schedule.
  - (a) The fee schedule shall be established annually by City Council resolution and shall be based on a general government impact fee study and adjustments for inflation.
  - (b) Fee amounts shall be displayed on the City Website.
- (3) Credits and/or Reimbursements. Credits and/or reimbursements toward or from payment of the general government impact fee shall be given to developers who construct and/or pay for general government improvements for which the general government improvement fees are otherwise required by this section provided that such improvements:
  - (a) Are first authorized by the City;
  - (b) Are constructed in accordance with plans approved by the City; and
  - (c) After construction, are accepted by the City.