

ORDINANCE NO. 2453

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

AN ORDINANCE IMPOSING A MORATORIUM UPON THE CITY'S PROCESSING OF APPLICATIONS FOR APPROVAL OF NEW SERVICE PLANS FOR RESIDENTIAL METROPOLITAN DISTRICTS

WHEREAS, the City of Commerce City, Colorado (the "City"), is a home rule municipality and political subdivision of the State of Colorado (the "State") organized and existing under a home rule charter (the "Charter") pursuant to Article XX of the Constitution of the State;

WHEREAS, pursuant to Article 1, Title 32, Colorado Revised Statutes, as amended (the "Special District Act"), the City has the authority to approve service plans for metropolitan districts ("Metro Districts") with boundaries wholly contained within the City's boundaries;

WHEREAS, pursuant to Sections 32-1-204.5 and 32-1-205 of the Special District Act, no Metro District shall be organized if its boundaries are wholly contained within the boundaries of the City except upon adoption of a resolution of approval of the City Council of the City (the "City Council");

WHEREAS, the General Assembly has declared that the procedures contained in Part 2 of Article 1 of the Special District Act are necessary for the coordinated and orderly creation of special districts and to prevent unnecessary proliferation and fragmentation of local government and to avoid excessive diffusion of local tax sources;

WHEREAS, since the summer of 2021, the City has been engaged with the community to solicit feedback with regards to Metro Districts and proposed regulatory concepts to protect the current and future residents of the City;

WHEREAS, the City has received feedback raising questions and significant concerns about various taxation, debt, financial, legal and governance problems with Metro Districts;

WHEREAS, the City Council has determined and hereby determines that the governance of a significant number of residential developments within the City is fragmented by the proliferation of Metro Districts with ten percent or more of the property within the Metro District developed or proposed to be developed for residential purposes ("Residential Metro Districts");

WHEREAS, the City Council has determined and hereby determines that City residents that live in Residential Metro Districts pay significantly more property taxes than other City residents who do not live in Residential Metro District without commensurate public benefit resulting in a lack of economic service provided by Residential Metro Districts;

WHEREAS, the City Council has determined and hereby determines that the approval of service plans for Residential Metro Districts results in the unnecessary proliferation and

fragmentation of local government and causes excessive diffusion of local tax sources resulting in a lack of organized and economic service;

WHEREAS, the City Council has determined and hereby determines that it is necessary and in the best interest of the City and its inhabitants, and necessary for the public's health, safety and welfare, to impose a moratorium on the City's processing of new service plan applications for Residential Metro Districts, provided that the moratorium is not intended to apply to new service plan applications for Metro Districts with less than ten percent of the property within the Metro District developed or proposed to be developed for residential purposes, amendments to service plans previously approved by the City Council or to agreements with the City as contemplated under previously approved service plans; and

WHEREAS, the City's power to impose this moratorium is among its home rule powers granted to it in Article XX of the Colorado Constitution.

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. Moratorium. A moratorium is hereby imposed on the City's processing of new service plan applications under the Special District Act for any proposed Metro District with ten percent or more of the property to be included in the proposed Metro District that is developed or is expected to be developed for residential purposes (the "Moratorium"). The Moratorium does not apply to new service plan applications under the Special District Act for any proposed Metro District with less than ten percent of the property to be included in the proposed Metro District that is developed or is expected to be developed for residential purposes, amendments to service plans previously approved by the City Council or to agreements with the City as contemplated under previously approved service plans.

SECTION 3. Term and Renewal. The initial term of the Moratorium shall begin on the effective date of this Ordinance and shall expire on January 1, 2024 (the "Initial Term"), unless sooner terminated by the City Council by ordinance. Unless sooner terminated by the City Council by ordinance, upon the expiration of the Initial Term the Moratorium shall automatically renew for successive one-year terms expiring on January 1 of each successive calendar year (each a "Renewal Term"), until the Moratorium is terminated by the City Council by ordinance. The Moratorium shall continue pursuant to the same terms contained herein for each Renewal Term, unless amended or terminated by ordinance of the City Council.

SECTION 4. Severability. If any section, subsection, paragraph, clause or other provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability thereof shall not affect any of the remaining sections, subsections, paragraphs, clauses or provisions hereof.

SECTION 5. Statutes Superseded. Pursuant to Article XX of the State Constitution and the Charter, all State statutes that might otherwise apply in connection with the provisions of this Ordinance are hereby superseded to the extent of any inconsistencies or conflicts between the provisions of this Ordinance and such statutes. Any such inconsistency or conflict is intended by the City Council and shall be deemed made pursuant to the authority of Article XX of the State Constitution and the Charter.

SECTION 6. Effective Date. This Ordinance shall be effective as provided in the City Charter.

INTRODUCED, PASSED ON FIRST READING, APPROVED AND ORDERED PUBLISHED BY TITLE THIS 5TH DAY OF DECEMBER 2022.

PASSED ON SECOND AND FINAL READING, APPROVED AND ORDERED PUBLISHED BY TITLE THIS 19TH DAY OF DECEMBER 2022.

CITY OF COMMERCE CITY, COLORADO

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Benjamin A. Huseman, Mayor

ATTEST

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Dylan A. Gibson, City Clerk