

A RESOLUTION WAIVING DEVELOPMENT-RELATED FEES FOR CERTAIN NEW COMMERCIAL DEVELOPMENT IN THE CITY OF COMMERCE CITY

NO. 2022-47

WHEREAS, the City Council of the City of Commerce City (“City”) desires to attract new commercial development to the City to improve the quality of life of the City’s residents, create new employment opportunities, and attract a variety of other developments;

WHEREAS, in order to offset the direct and indirect costs of regulating development and performing its regulatory functions, the City imposes certain development-related fees, as set forth in the Commerce City Directory of Fees & Charges (“Fee Directory”);

WHEREAS, the City Council previously approved Resolution No. 2019-53, which waived certain development fees established in Sections 2, 4, 5, and 17 of the Fee Directory, as more fully shown in Exhibit A to Resolution No. 2019-53, for certain types of new commercial development to induce such businesses to open in the City, in addition to those incentives that may be available through the Commerce City Economic Development Incentives Program, approved pursuant to Resolution No. 2014-56;

WHEREAS, Resolution No. 2019-53 is currently scheduled to expire on May 31, 2022, and the City Council now seeks to extend the commercial development fee waivers for certain types of commercial development through May 31, 2027;

WHEREAS, the City Council further desires to broaden the scope of the availability of commercial development fee waivers to include new categories of businesses that may qualify for the various fee waivers originally set forth in Exhibit A to Resolution No. 2019-53;

WHEREAS, extending the availability of certain fee waivers and allowing additional types of new commercial development to have the opportunity to qualify for certain waivers consistent with this resolution will serve a public purpose and be in the public interest; and

WHEREAS, the fee waivers permitted by this resolution will help the City fulfill its goal of attracting new commercial development to the City, thereby improving the quality of life of the City’s residents, creating new employment opportunities, and attracting other commercial development.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO, AS FOLLOWS:

SECTION 1. Findings. The recitals to this resolution are incorporated as findings of the City Council. This resolution is found to be necessary for the preservation of the public health, safety, and welfare and in the public interest.

SECTION 2. Fee Waiver. The City-imposed development fees identified in Exhibit A not identified by strikethroughs may be waived by the City with respect to the

development of any new Commercial Development, as defined below, whether incurred directly by a commercial business, an affiliated entity developing property for the commercial business' use, or a contractor or consultant acting on behalf of the Commercial Development or its affiliated entity. This waiver applies only to the end-user of the Commercial Development and to that portion of a development directly attributable to the Commercial Development. The City shall have sole discretion to determine whether fees are attributable to Commercial Development. Fees payable after the expiration or revocation of this resolution shall not be subject to this waiver.

“Commercial Development” includes the development of property for uses included in the following Commercial Use Classifications, as identified in the Commerce City Land Development Code, as adopted or amended:

- Restaurants, excluding those integrated into convenience stores or fuel sales locations.
- Private Recreation or Amusement Facilities, excluding health clubs.
- Lodging Establishments limited specifically to hotels.
- Hospitals.
- Grocery Stores, excluding Convenience Stores.

Fee waiver and other incentives requests for other types of development will be considered on a case-by-case basis through the Commerce City Economic Development Incentives Program.

SECTION 3. City Manager Authority to Waive Additional Fees. Consistent with Section 1(A) of the Fee Directory, the City Manager is authorized to waive any other City imposed fee for a Commercial Development project if the City Manager deems such a waiver to be in the best interests of the City, to the extent allowed by law.

SECTION 4. Authority to Suspend. The City Manager is authorized to suspend the fee waivers authorized by this resolution, in their entirety or with respect to a particular fee or particular development, if the City Manager determines that the cost to the City is excessive or the program is being abused or misused, in the City Manager's sole discretion.

SECTION 5. Directory of Fees and Charges. No other City fees shall be increased to offset the cost of the fee waivers authorized by this resolution. The Fee Directory shall be deemed modified as set forth in this resolution until this resolution expires or is terminated.

SECTION 6. Effective Date. This resolution shall take effect as set forth by the City Charter.

SECTION 7. Expiration. This resolution shall expire on May 31, 2027.

SECTION 8. Limitation. This resolution does not waive any fee identified by strikethroughs in Exhibit A or not listed; any tax, fine, or penalty; any legislatively-imposed impact fees; any fees charged by or for other entities; or any conditions of regulatory approval. This resolution shall not vest rights upon any person and nothing contained in it shall give or allow any claim or right of action by any person against the City

RESOLVED AND PASSED THIS 2ND DAY OF MAY 2022.

CITY OF COMMERCE CITY, COLORADO

Benjamin A. Huseman, Mayor

ATTEST

Dylan A. Gibson, City Clerk