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SECOND AND FINAL READING OF AN ORDINANCE AMENDING THE LAND DEVELOPMENT CODE OF THE CITY OF COMMERCE CITY BY UPDATING THE DRAINAGE IMPACT FEES BASED ON THE RECENT IMPACT FEE STUDY

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Summary & Background

UPDATED:

The City has an unfunded need to construct master planned drainage improvements to convey increased stormwater runoff caused by new development. Improvements are needed to protect life and property during large storm events. The current fees collected to fund stormwater improvements have not been updated since the early-to-mid 2000s:

- Third Creek last updated in 2007
- Buffalo Run Trib last updated in 2005
- Direct Flow Area 0053 last updated in 2006
- Second Creek last updated in 2003

Current fund balance of all existing drainage impacts fees is around \$1.7M and we have a capital need of approximately \$308.5M - leaving a funding gap of about \$306.8M. Total capital need is based on planning costs from master plans that were approved and adopted by the City and the Mile High Flood District and summarized in the report titled *City of Commerce City - Drainage Impact Fee Study* prepared by RESPEC Company, LLC and finalized May 10, 2022.

Options for implementing changes/increases to drainage impact fees were presented/discussed at a Study Session held on April 11, 2022 (See Attachment 1 for presentation). At which time, City Council directed staff to charge 50% the maximum calculated fee for development within the C-1, C-2, & C-3 commercial districts. Subsequently, at its October 24, 2022 Study Session during the Road Impact Fee discussion, City Council requested staff provide additional options to further incentivize preferred economic development uses being recruited by the Economic Development Department where the proposed fee for those uses would be zero so this direction was also utilized for the proposed Drainage Impact Fees. At the October 24, 2022 Study Session, the Drainage Impact Fee presentation was not heard due to a lack of time but the presentation is included as Attachment 2 for reference. At the January 9, 2023 City Council Study Session, Council directed staff to bring forward an ordinance to consider on the February 6, 2023 City Council agenda, which was unanimously approved by City Council for the first reading. The staff presentation is attached as Attachment 3 for reference.

This ordinance and the *Updated Directory of City Fees and Charges* reflects those recommendations made by the *Impact Fee Study* and by City Council. The table below

illustrates the current fee being assessed and the proposed fee for the various drainage basins based on City Council input:

Area	Basin	Current Impact Fee/Acre	Proposed Impact Fee/Remaining Developable Acre	Proposed Impact Fee/SF ¹
Basin Specific	Henderson/ DFA 0053	\$3,055	\$30,486	\$0.70
	Second Creek	\$1,700	\$32,027	\$0.74
	Third Creek	\$1,445	\$9,217	\$0.21
	First Creek	N/A	\$67,448	\$1.55
	Irondale	N/A	\$54,309	\$1.25

Notes:

- 1) The impact fee rate is per square foot of new impervious area found within a particular drainage basin. The applicable fee amount per square foot of new impervious area shall be multiplied by the square footage of impervious area to determine the total drainage impact fee to be assessed.
- 2) Fee Adjustment for Commercial Districts. The applicable drainage impact fee shall be half of the calculated fee required by this Section for new commercial developments in the C-1, C-2, and C-3 districts. The remainder of the costs shall be borne by the City.
- 3) Fee Adjustment for Preferred Economic Development - The following Land Use types are exempt from drainage fees

Land Use Type		Development Unit	Fee per Development Unit
Lodging			
310	Hotel	Rooms	\$0
311	All Suites Hotel	Rooms	\$0
312	Business Hotel	Rooms	\$0
330	Resort Hotel	Rooms	\$0
Recreational			
431	Miniature Golf Course	1000 Sq.Ft.	\$0
436	Trampoline Park	1000 Sq.Ft.	\$0
437	Bowling Alley	1000 Sq.Ft.	\$0
444/445	Movie Theater	1000 Sq.Ft.	\$0
480	Amusement Park	1000 Sq.Ft.	\$0
482	Water Slide Park	1000 Sq.Ft.	\$0

Land Use Type		Development Unit	Fee per Development Unit
Medical			
610	Hospital	1000 Sq.Ft.	\$0
650	Free-Standing Emergency Room	1000 Sq. Ft.	\$0
Office			
710	General Office Building	1000 Sq. Ft.	\$0
720	Medical-Dental Office Building	1000 Sq. Ft.	\$0
Retail			
820	Shopping Center	1000 Sq.Ft.	\$0
850	Supermarket	1000 Sq.Ft.	\$0
862	Home Improvement Superstore	1000 Sq.Ft.	\$0
863	Electronics Superstore	1000 Sq.Ft.	\$0
872	Bed and Linen Superstore	1000 Sq.Ft.	\$0
876	Apparel Store	1000 Sq.Ft.	\$0
879	Arts and Crafts Store	1000 Sq.Ft.	\$0
890	Furniture Store	1000 Sq.Ft.	\$0
Services			
930	Fast Casual Restaurant	1000 Sq. Ft.	\$0
931	Quality Restaurant	1000 Sq. Ft.	\$0
932	High Turnover (Sit Down) Restaurant	1000 Sq. Ft.	\$0
971	Brewery Tap Room	1000 Sq. Ft.	\$0

Attachment 4 shows the proposed revisions to the *Directory of City Fees and Charges (Section 17(J), p27)*. Attachment 5 is the final *City of Commerce City – Drainage Impact Fee Study* dated May 2022 completed by RESPEC Company, LLC. Attachment 6 shows the Drainage Impact Fee Basin boundaries for reference. The *Updated Directory of City Fees and Charges* will be considered for approval by the City Council through a Resolution following the second reading of this Drainage Impact Fee Ordinance at the March 6, 2023 agenda. These proposed fees are planned to take effect on May 1, 2023.

It was discovered after the First Reading of the Ordinance the effective date in the Ordinance did not reflect May 1, 2023. Therefore, Staff requests the City Council to make an amendment motion to reflect an effective date of May 1, 2023 prior to making a motion for the Second Reading of the Ordinance. Attachment 7 is the Staff proposed revised Ordinance 2391 stating the May 1, 2023 effective date.

Staff Responsible (Department Head): Joe Wilson, Director of Public Works

Staff Presenting: Shawn Poe, PE, CFM, City Engineer
Chris Hodyl, Development Review Manager
Joe Wilson, Public Works Director

Financial Impact: Collecting drainage impact fees from the development community is an important mechanism for cities to improve drainage infrastructure due to the impact of development.

Funding Source: N/A

Staff Recommendation: Staff recommends the City Council make an amendment to Ordinance 2391 making the effective date May 1, 2023 and subsequently approving the Second and Final Reading of an Ordinance Amending the Land Development Code of the City of Commerce City by updating the drainage impact fees based on the recent Impact Fee Study.

Suggested Motion: Motion to Amend Ordinance 2391 Providing an Effective Date of May 1, 2023 followed by a motion to approve the Second and Final Reading of an Ordinance Amending the Land Development Code of the City of Commerce City by Updating the Drainage Impact Fees Based on the Recent Impact Fee Study.