



# STAFF REPORT

## Planning Commission

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### ORDINANCE #2021

<b>PC Date:</b>	January 3, 2017	<b>Case Planner:</b>	Steve Timms
<b>CC Date:</b>	February 6, 2017		
<b>Location:</b>	City-Wide		
<b>Applicant:</b>	City of Commerce City		
<b>Address:</b>	7887 East 60 <sup>th</sup> Avenue, Commerce City, CO 80022		

### Case Summary

<b>Request:</b>	Commerce City is requesting to update Section 21-9230 of the LDC (Water Acquisition Fee) by temporarily halting the escalation clause in the ordinance until a full study can be performed on this fee.
<b>Project Description:</b>	The Water Acquisition Fee was created in 2006 as a way to assist in the funding and acquisition of water for parks, recreation facilities, and other city facilities throughout the City. This particular fee is charged for all new development in the city (residential and non-residential). Until such time that a formal study can be conducted to evaluate the fee and related escalator, City Council has directed staff to halt the escalator clause on the water acquisition fee (currently 10% a year), of which the code language is found in Article IX of the LDC.
<b>Staff Recommendation:</b>	Approval

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

☒ Proposed Language of Amendment.

## Background Information

The Land Development Code is a “living document” that acts as a tool to guide future development of a community, protect neighborhoods, focus development, and enhance the environment. As a part of the public review process for the LDC, it was mentioned that the code would be an “on-going work in progress,” and that this document would continually evolve to reflect the needs and desires of the city. To implement this, changes or amendments are implemented periodically.

Since 2010, the Planning Commission and City Council have reviewed and approved a variety of updates to the Land Development Code. Some of these updates are topic specific (floodplain, marijuana, and signs) while others have been general or "housekeeping" in nature, which work to advance the goals and desires of the community. The item for this ordinance is topic specific and deals only with the water acquisition fee on development.

As a growing community, Commerce City’s needs are constantly evolving and monitoring development regulations helps to ensure that the regulations are relevant and reflect the community’s values. Therefore, future amendments and updates should be expected. Currently, there are no limitations or preclusions related to the number of zoning code amendments that the city may adopt.

## Request and Analysis

The request is to modify Section 21-9230 of the LDC by temporarily halting the escalation clause of 10% per year until a full study of this fee and the appropriate escalator (if any) is conducted. The underlying fee amount of \$1,428.01 (the 2016 rate) will still apply for each new residential or non-residential habitable structure in the city.

Development impact 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 and/or maintenance. Impact fees may only be charged to new development and that the funds collected must be utilized on improvements needed as a result of the new development.

Pursuant to federal and state law, adoption of impact fees requires a "nexus" or linkage between the fees being charged, the impacts of new development, the benefit of the 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 and must be generally applicable to a broad category of development. The fees can vary by different geographical areas of the City. The revenue collected from impact fees may not be immediately available for projects because it may take some time to accumulate sufficient funding.

Over the past year, City Council has been analyzing the city's fees and their related structures and there were questions raised about the 10% escalator. The City is proposing to temporarily halt the 10% escalator clause (at the 2016 rate) until a full study can be performed on this fee.

**Study Session:**

In November 2016,, staff held a study session with City Council at which time this item was discussed. At the study session, City Council felt this was an appropriate course of action to take to study the fee in greater detail in the future and determine whether the fee and related escalator are appropriate. City Council directed staff to prepare an amendment to the LDC to remove the 10% escalator clause for all new developments.

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## 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.

### **\*Recommended Motion\***

**To recommend approval:**

I move that the Planning Commission recommend that City Council approve Ordinance #2021, an ordinance amending the Commerce City Land Development Code.

## Alternative Motions

**To recommend approval subject to condition(s):**

I move that the Planning Commission recommend that City Council approve Ordinance #2021, an ordinance amending the Commerce City Land Development Code subject to the following conditions:

*Insert Condition(s)*

**To recommend denial:**

I move that the Planning Commission recommend that City Council deny Ordinance #2021, an ordinance amending the Commerce City Land Development Code because it fails to meet the following criteria:

*List the criteria not met*

I further move that, based upon this finding, the Planning Commission recommend that the City Council deny Ordinance #2021.

**To recommend continuance:**

I move that the Planning Commission continue the requested Ordinance #2021 to a future Planning Commission agenda.