

**DRAFT FOR CITY COUNCIL REVIEW**  
**OCTOBER 23, 2017**

ORDINANCE NO. 2146

INTRODUCED BY: \_\_\_\_\_  
\_\_\_\_\_

AN ORDINANCE AMENDING THE LAND DEVELOPMENT CODE AND ENACTING AND AUTHORIZING THE COLLECTION OF AN DEVELOPMENT FEE FOR FIRE AND EMERGENCY SERVICES

WHEREAS, C.R.S. §29-20-104.5 authorizes local governments to impose development fees on new development, including expenditures of a fire and emergency services provider, pursuant to a schedule that is legislatively adopted, generally applicable to a broad class of property and intended to defray the projected impacts on capital facilities caused by proposed development;

WHEREAS, South Adams County Fire Protection District (“South Adams”) has submitted to the City Council (“City Council”) of the City of Commerce City (“City”) an Impact Fee Study dated April 19, 2017, detailing the nexus between South Adams’ boundaries and the projected impact that such development has on South Adams’ capital facilities;

WHEREAS, based on its study, South Adams proposed a development fee to defray the impacts of new development as follows: \$.46 per square foot for nonresidential development; \$732 per dwelling unit for single family residential development; and \$337 per dwelling unit for multi-family residential development;

WHEREAS, Greater Brighton Fire Protection District (“Greater Brighton”) has submitted to the City Council (“City Council”) of the City of Commerce City an Impact Fee Study dated February 16, 2017, updated September 8, 2017, detailing the nexus between Greater Brighton’s boundaries and the projected impact that such development has on Greater Brighton’s capital facilities;

WHEREAS, based on its updated study, Greater Brighton proposed a development fee to defray the impacts of new development as follows: \$.06 per square foot for industrial or warehouse development; \$.559 per square foot for commercial development; \$688 per dwelling unit for single family residential development; and \$550 per dwelling unit for multi-family residential development;

WHEREAS, the City Council desires to impose a development fee on new residential and non-residential development to defray the impacts of such development on South Adams and Greater Brighton to ensure the delivery of adequate fire and emergency services within the City;

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

**SECTION 1.** The City Council hereby finds and determines:

**DRAFT FOR CITY COUNCIL REVIEW**  
**OCTOBER 23, 2017**

- (a) The City is authorized by law, including but not limited to C.R.S. § 29-20-101 et seq. and the City Charter, to impose an impact fee or other similar development charge as a condition of the issuance of development permit, in order to fund expenditures by a fire and emergency services provider on capital facilities needed to serve new development.
- (b) The City and its fire and emergency service providers are experiencing new development and related population growth, and such development has placed and is projected to place an increased demand upon capital facilities of its fire and emergency service providers.
- (c) The protection of the health, safety, and general welfare of the citizens of the City requires that these capital facilities be constructed, expanded or improved to accommodate and serve continuing development and growth within the City.
- (d) The taxes and other revenues generated from new development do not generate sufficient funds to provide the necessary capital facilities to accommodate and serve new development.
- (e) The adoption of an equitable development fee system consistent with the requirements of state law will ensure new development pays a proportionate and fair share of the costs of the needed capital facilities, allowing fire and emergency services providers to make the necessary capital facility expenditures to serve new development.
- (f) The nexus studies presented by Greater Brighton and South Adams, which rely on reasonable methodologies, analyses, and assumptions, and this section are generally applicable to broad classes of property, quantify the reasonable impacts of new development in the City within the jurisdiction of Greater Brighton and South Adams and recommend a development fee no greater than is necessary to defray the projected impacts on the capital facilities of Greater Brighton and South Adams directly related to proposed new development.
- (g) The imposition of a development fee for the benefit of fire and emergency services providers, as provided herein, is in the best interests of and necessary for the protection of the health, safety, and welfare of the public.

**SECTION 2.** Section 21-9100 of Division 1 of Article IX of the Land Development Code (Chapter 20 of the Commerce City Revised Municipal Code) is amended to read as follows:

The development of land results in new and increased demands on city facilities and services, including but not limited to, schools, roads, water, parks, fire and emergency services providers, and recreation facilities. The costs of providing such additional services and facilities should be borne by those who create the new or additional need. Accordingly, new development shall contribute toward meeting the increased public service needs as provided in this article. These required

**DRAFT FOR CITY COUNCIL REVIEW**  
**OCTOBER 23, 2017**

contributions, whether in the form of fees, dedicated land, or other contributions are generally referred to in this article as development fees.

**SECTION 3.** Section 21-9110 of Division 1 of Article IX of the Land Development Code (Chapter 20 of the Commerce City Revised Municipal Code) is amended to read as follows:

All development fees required pursuant to this article shall be satisfied through the dedication of land, the payment of a fee, or a combination thereof, as determined by the city, except as allowed for fire and emergency services fees collected by a fire and emergency services provider. No landowner shall be required to provide a site specific dedication or improvement to satisfy the same need for capital facilities.

**SECTION 4.** Division 2 of Article IX of the Land Development Code (Chapter 20 of the Commerce City Revised Municipal Code) is amended by the addition of a new Section 21-9250 entitled "Fire and Emergency Services Fee" to read as follows:

**Section 21-9250. Fire and Emergency Services Fee.**

**(1) Applicability.** A fire and emergency services fee shall be assessed on new structures requiring a certificate of occupancy within the jurisdictional boundaries of either South Adams County Fire Protection District or Greater Brighton Fire Protection District, as amended from time to time, in the City except:

- a. When the new structure replaces an existing structure on the site and does not result in an increase in the density or intensity of use on the property;
- b. For low- or moderate-income housing dwelling units, provided such dwelling units are intended to be occupied or owned, as evidenced by deed restrictions for units for sale or income qualifications existing for a period of at least ten (10) years for units for rent, by individuals or families whose income is: for low-income housing, sixty percent (60%) or less of area median income; for moderate-income housing, eighty percent (80%) or less of area median income;
- c. For structures west of the Rocky Mountain Arsenal National Wildlife Refuge and south of 80th Avenue;
- d. For structures constructed by or for a governmental or quasi-governmental entity or service.

**DRAFT FOR CITY COUNCIL REVIEW**  
**OCTOBER 23, 2017**

- (2) **Schedule.** Fire and emergency services fees shall be imposed according to the following schedule for development within the boundaries of a fire and emergency services provider listed below:

**Table IX-4 Fire and Emergency Services Fee**

<b>Fire and Emergency Services Provider</b>	<b>Non-residential</b>	<b>Single-Family Residential (including modular homes)</b>	<b>Multi-Family Residential (including modular homes)</b>
South Adams County Fire Protection District	\$.46 per square foot	\$732	\$250
Greater Brighton Fire Protection District	\$.06 per square foot for industrial development	\$688	\$550
	\$.559 per square foot for commercial development		

For mixed commercial and industrial development, the predominant use shall determine the applicable fee.

- (3) **Method of Satisfaction.** Fire and emergency services fees payable under this section may be paid as a fee or a contribution of land or capital facilities having a value not to exceed the amount of the fee, or any combination of such fee or contribution, with the agreement of the landowner or developer and the applicable fire and emergency services provider.
- (4) **Collection.** Fire and emergency services fees shall be payable at the time of issuance of building permit and shall be collected by the applicable fire and emergency services provider. The fee may be computed separately for each building permit. Confirmation of satisfaction of the fee obligations under this section from the applicable fire and emergency services provider shall be a condition to the issuance of a building permit.
- (5) **Intergovernmental Agreement.** The details of collection and remittance of fire and emergency services fee, and other matters concerning such fees not inconsistent with this ordinance, shall be established in an intergovernmental agreement between the city and the

**DRAFT FOR CITY COUNCIL REVIEW**  
**OCTOBER 23, 2017**

applicable fire and emergency services provider. No fire and emergency services fee shall be payable for a new structure within the jurisdictional boundaries of a fire and emergency services provider if, when the building permit would be issued but for satisfaction of the fire and emergency services fee, the intergovernmental agreement between the city and that fire and emergency services provider has not been enacted or has been terminated.

- (6) Limitation.** No fire and emergency services fee shall be imposed on an individual landowner to fund expenditures for a capital facility used to provide fire, rescue, and emergency services if the landowner is already required to pay an impact fee or other similar development charge for another capital facility used to provide a similar fire, rescue, and emergency service or if the landowner has voluntarily contributed money for such a capital facility.

**SECTION 5.** This ordinance shall be effective January 1, 2018.

**SECTION 6.** If any section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect, impair, or invalidate the remaining portions of this ordinance.

**SECTION 7.** Except as specifically modified herein, the provisions of the Land Development Code shall remain unchanged and in full force and effect.

INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE  
ORDERED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE  
ORDERED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

CITY OF COMMERCE CITY,  
COLORADO

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Sean Ford, Mayor

ATTEST:

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Laura J. Bauer, MMC, City Clerk