



# STAFF REPORT

## Planning Commission

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### ORDINANCE #2213

**PC Date:** June 18, 2019

**Case Planner:** Brent Soderlin / Domenic Martinelli

**CC Date:** July 1, 2019

**Location:** All lands north of 88<sup>th</sup> Avenue, and properties north of 81<sup>st</sup> Avenue east of Buckley Road

**Applicant:** City of Commerce City

**Address:** 7887 East 60<sup>th</sup> Avenue, Commerce City, CO 80022

### Case Summary

**Request:** Commerce City is requesting to amend Article IX of the LDC to enact a new impact fee for expenditures on capital improvements that arise from Oil and Gas facilities and their impacts on the city's roadway network.

**Project Description:** The proposed ordinance establishes a new impact fee for new oil and gas facilities north of 88<sup>th</sup> Avenue, and properties north of 81<sup>st</sup> Avenue east of Buckley Road. The fee is intended to fund capital facilities improvements for roadways directly impacted by Oil and Gas activity.

**Staff Recommendation:** Approval

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

- ☒ Proposed Language of Amendment.
- ☒ Oil and Gas Impact Fee Study

## Background Information

Oil and gas drilling and production can impact local road systems, as well as other public infrastructure and services. Commerce City has authority derived from state statutes to regulate public roads over which it has jurisdiction. The City has commissioned this study to understand the potential impacts of oil and gas development and production on the City's road system and to design a roadway impact fee to offset increased costs of transportation impacts associated with heavy truck traffic from oil and gas activity.

Due to Commerce City's location in the Denver-Julesburg Basin, energy companies have shown an increased interest in exploration and drilling in the city. The city does anticipate receiving permits for oil and gas facilities within the year, and recognizes the need to establish an impact fee to recover the incremental costs associated with the oil and gas industry's impact on Commerce City's road network.

## Request and Analysis

The city has commissioned Felsburg, Holt and Ullevig (FHU) to conduct an impact fee study, and determine what the financial impact to Commerce City's road network would be from increased Oil and Gas development, and generate a per pad and per well fee that reflects such impacts. The completed study is attached.

Development 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 or maintenance. Impact fees may only be charged to new development. Pursuant to federal and state law, impact fees require a "nexus" or linkage between fees charged, the impacts of new development, the benefit of 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, must be generally applicable to a broad class of property, and must be intended to defray the projected impacts on capital facilities caused by proposed development.

Two fee methods are used in this study: one to calculate fees for recovering road deterioration (load-based) costs and one to calculate fees to account for roadway widening including the need to improve shoulders for multimodal safety reasons. Because of the nature of oil and gas development, the most intense impact occurs during the first month of a well's life. After the development phase, the well enters the less trip-intensive, though ongoing, production phase. The capital required to recover the costs of the development phase is ideally recovered before development begins or during the permitting process. The fees are designed to recoup the cost to the City associated with road deterioration and other related impacts. The attached study goes into further detail on the fee calculation methodology, and process.

**Proposed Ordinance:** City staff has prepared a draft ordinance to amend Division 2 of Article IX of the Land Development Code) to add a new Section 21-9260 enacting the development fee and sets the fee at the maximum amounts proposed by the respective districts. The amount of the fee may be adjusted by Council when the ordinance is considered. An ordinance is attached with the proposed language.

Completed Pipelines Servicing Pad (presence indicated by "X")			Impact Fee
Fresh Water Pipeline	Produced Water Pipeline	Product Pipeline	Total
Per Pad Fee			
\$ 996			
Per Well Fee			
-	-	-	\$ 21,172
X	-	-	\$ 20,260
-	-	X	\$ 13,853
-	X	-	\$ 13,217
X	-	X	\$ 12,703
X	X	-	\$ 12,067
-	X	X	\$ 3,295
X	X	X	\$ 2,145

The fee structure is designed to incentivize the utilization of pipelines, to reduce the impacts to Commerce City roadways by transporting Oil, Gas, and produced water via pipeline, rather than by truck. This difference is marked by a \$21,172 per well fee for a site that utilized no pipelines, to a \$2,145 fee for a site utilizing all three categories of pipelines listed above.

## 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 the proposed ordinance #2213 amending the Commerce City Land Development Code and enacting and authorizing the collection of an Oil and Gas Impact Fee.

## Alternative Motions

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

I move that the Planning Commission recommend that City Council approve Ordinance #2213 subject to the following modifications:

*Insert proposed modifications*

#### To recommend denial:

I move that the Planning Commission recommend that City Council not approve Ordinance #2213 for the following reasons

*List the reasons not met*