

ORDINANCE NO. 22-_____

AN ORDINANCE CREATING NEW PART 19 (CITYWIDE DEVELOPMENT IMPACT FEES) OF ARTICLE 5 (ADMINISTRATION AND PROCEDURES) OF CHAPTER 7 (PLANNING DEVELOPMENT AND BUILDING) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO CITYWIDE DEVELOPMENT IMPACT FEES

WHEREAS, the City of Colorado Springs, Colorado (the "City") is a home rule municipality and Colorado municipal corporation having the right of self-government in local and municipal matters under the provisions of Article XX, Section 6 of the Colorado Constitution; and

WHEREAS, among the City's home rule powers is the power to regulate, as a matter of purely local and municipal concern, the development of real property within the City and establish impact fees for such development; and

WHEREAS, the City is further authorized pursuant to C.R.S. §§ 29-20-104.5 and 104(1)(g) to impose and collect an impact fee to fund new capital facilities needed to serve new development; and

WHEREAS, new development within the City necessitates increased capacity for emergency services response from the City's police and fire departments, and other public services; and

WHEREAS, the City commissioned TischlerBise to conduct a study to determine the appropriate fees needed to fund capital expenditures for the City's police and fire departments (the "Cost Study"); and

WHEREAS, the Cost Study and the fees recommended by the Cost Study are roughly proportional to the burdens on the City's police and fire services created by new development and redevelopment; and

WHEREAS, increased capacity for emergency services anywhere within the City limits contributes to City-wide emergency service preparedness; and

WHEREAS, City Council has determined that annual administrative adjustment of fees in accord with this ordinance promotes efficiency and consistency and is in the best interests of the public health, safety and welfare and the administration of this ordinance would benefit from public input as part of the budget process; and

WHEREAS, City Council has determined that it is in the best interests of the City and its citizens, and is necessary for the protection of the public's health, safety

and welfare, for the City to impose impact fees on new development and redevelopment of existing development for the expansion of public safety and other public services.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. A new Part 19 (Citywide Development Impact Fees) of Article 5 (Administration and Procedures) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, is created to read as follows:

PART 19: CITYWIDE DEVELOPMENT IMPACT FEES

- 7.5.1901: PURPOSE AND APPLICABILITY:**
- 7.5.1902: LAND USE INTENSITY; FEE TIERS:**
- 7.5.1903: POLICE CAPITAL EXPANSION FEE:**
- 7.5.1904: FIRE PROTECTION CAPITAL EXPANSION FEE:**
- 7.5.1905: EMERGENCY SERVICES CAPITAL IMPROVEMENTS PLAN:**
- 7.5.1906: ADMINISTRATION OF FEES:**

7.5.1901: PURPOSE AND APPLICABILITY:

A. It is hereby declared to be the policy of the City that CDI fees shall be required wherever new development, redevelopment, or annexation of existing development into the City causes a need for the capital expansion of public services. It is the purpose of this part to require the payment of Citywide Development Impact Fees ("CDI Fees") whenever new developments are constructed or existing developments are converted to a more intensive use. CDI Fees will be applied and administered as separate fees.

B. The fees provided for in this part shall be recalculated by the Mayor on an annual basis to reflect cost inflation experienced in the average of July to June of each year as calculated by the U.S. Bureau of Labor Statistics, Producer Price Index by Industry: New School Building Construction, PCU236222236222 (or a similar index if the New School Building Construction index is no longer published).

C. This part shall apply to all new buildings and additions to existing buildings constructed within the City, to conversions of existing developments within the City into more intensive uses. City Council may, by resolution, authorize the Manager to discount or rebate CDI Fees for low or moderate-income housing. The Mayor may waive or reduce CDI Fees as an authorized incentive in an economic development agreement as provided for in Article 12 of Chapter 2 of this Code or as approved by Council pursuant to a resolution.

D. The Manager shall assess CDI Fees upon issuance of an entitlement if:

1. the development or redevelopment creates new or additional dwelling units;
2. the development or redevelopment requires a development plan or major or minor amendment to a development plan; or
3. the Manager determines, based upon individualized analysis, that the development or redevelopment would create a substantial need for additional public services.

E. If existing development is redeveloped, CDI Fees shall be due for the incremental difference between the amount that is due for the new, more intensive use and the amount that would be due for the existing, less intensive use.

F. CDI Fees shall be collected prior to issuance of a building permit, or, if no building permit is required for the project, upon approval of a development plan, final plat or other entitlement authorizing the use. No building permit or certificate of occupancy shall be issued until all CDI Fees have been paid.

G. No credit or refund shall be given for redeveloping a parcel to a less intensive use.

7.5.1902: LAND USE INTENSITY; FEE TIERS:

City Council shall, by resolution, determine the intensity of each authorized land use set forth in this Chapter by making findings regarding the extent to which each use will contribute to the need for additional public services and assigning each land use a fee based upon the intensity of the land use. CDI Fees may vary for uses of different intensities and are intended to establish rough proportionality between the amount of any fee and the needs created by the increased demand on public services resulting from intensifying development. City Council may categorically exempt specific uses from CDI Fees upon the finding that such use has a *de minimis* effect on public services or that the use provides for comparable public services through alternative means.

7.5.1903: POLICE CAPITAL EXPANSION FEE:

There is hereby established a police capital expansion fee which shall be imposed pursuant to the provisions of this part for the purpose of funding capital improvements related to the provision of police services, as such improvements may be identified in a capital improvements plan for police services. The amount of such fee shall be established by City Council pursuant to resolution.

7.5.1904: FIRE PROTECTION CAPITAL EXPANSION FEE:

There is hereby established a fire protection capital expansion fee which shall be imposed pursuant to the provisions of this part for the purpose of funding capital improvements related to the provision of fire protection services, as such improvements may be identified in a capital improvements plan for fire protection services. The amount of such fee shall be established by City Council pursuant to resolution.

7.5.1905: EMERGENCY SERVICES CAPITAL IMPROVEMENTS PLAN:

The Mayor shall prepare separate capital improvements plans for police and fire protection services that include lists of capital improvements projects anticipated to become necessary due to development within the City. The Mayor may amend the order of priority of capital improvements projects in a capital improvements plan in response to development patterns, annexations and other circumstances identified by the Mayor.

7.5.1906: ADMINISTRATION OF FEES:

- A. The entire City may be considered to be a single service area for purposes of calculating, collecting and spending the CDI Fees.
- B. Capital improvements projects for public services may be fully or partially funded by CDI Fees, as determined by the Mayor.
- C. CDI Fees shall be used only to expand, improve, or construct the City's new capital improvements, facilities, and equipment that have an expected service life of five (5) years or longer and that increase the City-wide police and/or fire protection service level. CDI Fees shall not be used for routine maintenance or replacement of existing equipment or facilities or for personnel. CDI Fees may be used to fund expansion of an existing facility where the expansion increases the level of service.
- D. A property owner who dedicates land by plat for a police or fire station at the request of the City may be credited with corresponding police or fire protection capital expansion fees up to the full value of the land at the rate adopted by City

Council as the City-wide value of one (1) acre of unplatted, undeveloped land as provided for in section 7.7.1207, plus platting fees actually paid by the property owner for the land dedicated. Any credited fees shall be identified in a written agreement, signed by the Manager, which shall set forth any terms deemed necessary by the City. Credited fees may be assigned to another party, provided that the transfer is made by written assignment, signed by the assignor, and a copy of the assignment is provided to the City prior to use of the credited fees by any party.

E. The Mayor may, but shall not be obligated to, waive collection of as-yet uncollected police service and fire protection annexation fees provided for in any active annexation agreement entered into prior to January 1, 2023. The Mayor may, but shall not be obligated to, offset CDI Fees against previously paid police service and fire protection annexation fees, if the applicant can demonstrate through written documents executed by the City that police service or fire protection annexation fees were paid for the specific parcel in question. Previously paid annexation fees shall not be refunded as cash or transferable credits.

F. The Chief Financial Officer shall periodically identify and report to Council funds, including grants, fees, dedicated public safety tax revenues or other sources, that have been newly obtained by the City for the specific purpose stated in this part, and periodically identify significant changes in demand or cost. Upon identifying these items, but not more often than once every four (4) years, the Chief Financial Officer shall conduct an updated fee study and advise Council on the feasibility and effects of adjusting the CDI Fee.

Section 3. This ordinance shall be in full force and effect from and after January 1, 2023.

Section 4. Council deems it appropriate that this ordinance be published by title and summary prepared by the City Clerk and that this ordinance be available for inspection and acquisition in the office of the City Clerk.

Introduced, read, passed on first reading and ordered published this ____ day of _____, 2022.

Finally passed: _____

Council President

Mayor's Action:

- Approved on _____.
- Disapproved on _____, based on the following objections:

Mayor

Council Action After Disapproval:

- Council did not act to override the Mayor's veto.
- Finally adopted on a vote of _____, on _____.
- Council action on _____ failed to override the Mayor's veto.

Council President

ATTEST:

Sarah B. Johnson, City Clerk