

Agenda Item: GB-A

Meeting Date: April 25, 2022

Subject: ORDINANCE 922, AN ORDINANCE AMENDING SECTION 4-104 OF THE DACONO MUNICIPAL CODE REGARDING IMPACT FEE DEFINITIONS.

Presenter: Jennifer Krieger, AICP, Community Development Director

Background: By Ordinance 914, the City Council adopted updated development impact fees. As part of the updated impact fee schedule, “nonresidential” development types were further categorized into more specific categories. These definitions were included in the TichlerBise Development Impact Fee Study dated June 14, 2021. Ordinance 914 did not include these specific definitions but would help in the administration of the City’s impact fees.

Ordinance 922 amends Section 4-104 of the Dacono Municipal Code and adds additional definitions applicable to impact fees paid by new development.

This Ordinance does not alter the adopted impact fee schedule. No changes were made to Ordinance 922 after the first reading.

Recommendation: Staff recommends approval of Ordinance 922 on second reading.

ORDINANCE NO. 922

AN ORDINANCE AMENDING SECTION 4-104 OF THE DACONO MUNICIPAL CODE REGARDING IMPACT FEE DEFINITIONS.

WHEREAS, pursuant to Article XX, Section 6 of the Colorado Constitution and state law, including but not limited to C.R.S. § 29-20-101 *et seq.*, and as a condition of issuance of a development permit, the City has the authority to impose an impact fee or other similar development charge to fund expenditures by the City on capital facilities needed to serve new development; and

WHEREAS, by Ordinance No. 641 the City Council adopted impact fees to be paid by new residential development and established provisions for the collection and expenditure of such impact fees, which ordinance, as thereafter amended, is codified in Chapter 4, Article 4 of the Dacono Municipal Code with the impact fees adopted by the City Council set forth in Appendix 4-A; and

WHEREAS, Section 4-130 of the Dacono Municipal Code requires periodic review of the City's impact fees to ensure that (1) the demand and cost assumptions underlying the impact fees are still valid; (2) the resulting impact fees do not exceed the actual costs of constructing capital facilities that are of the type for which the fees are paid and that are required to serve new impact-generating development; (3) the monies collected or to be collected in each impact fee trust account have been paid and are expected to be spent for capital facilities for which the fees were paid; and (4) the capital facilities for which the fees are to be used will benefit the development paying the fees; and

WHEREAS, by Ordinance No. 914, based on a review of the impact fees as required by D.M.C. § 4-130 the City Council updated the City's impact fee schedule based on a *Development Impact Fee Study* dated June 14, 2021 by TischlerBise (the "Impact Fee Study"); and

WHEREAS, the update to the City's impact fee schedule included further categorizing "nonresidential" development type into more specific categories, definitions of which in the City's impact fee ordinance would be helpful to administering the City's impact fees that are assessed and collected pursuant to Chapter 4, Article 4 of the Dacono Municipal Code; and

WHEREAS, the Impact Fee Study also utilizes certain terms that would be helpful to administering the City's impact fees that are assessed and collected pursuant to Chapter 4, Article 4 of the Dacono Municipal Code; and

WHEREAS, by this ordinance the City Council desires to amend Section 4-104 of the Dacono Municipal Code to add such terms to those defined under Chapter 4, Article 4.

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

Section 1. Section 4-104 of the Dacono Municipal Code is hereby amended to add the following definitions, to be inserted alphabetically:

Commercial means a building that is designed to permit exclusive retail, wholesale or commercial service uses, a combination of commercial uses in conjunction with office uses or any other use that is permitted within the commercial general zoning district that does not fall within the definition of any other land use category defined in this Code.

Commercial/Retail shall include but not necessarily be limited to those land uses defined by Standard Industrial Classification codes 50-59, which include wholesale and retail trade, restaurants, service stations, and the like.

Industrial means a building that is designed or utilized for exclusive manufacturing or warehousing use or a combination of manufacturing and commercial service or office use.

Office/Institutional means a building that is specifically designed for exclusive use by office uses, including those primarily utilized for medical offices, wherein the primary function is the provision of professional services as opposed to retail, wholesale, commercial service or industrial uses. Institutional use means the use of land, buildings or other structures for some public purpose but not for commercial use or for commercial business purposes and may include governmental, religious, educational, charitable, philanthropic, hospital, or other similar but non-business uses. Office/Institutional shall include but not necessarily be limited to those land uses defined by Standard Industrial Classification codes 40-49 and 60-99, which include transportation, utilities, government, health care, banking, insurance, real estate, personal and business services and the like.

Square foot means every square foot of floor area of a building as defined in the building codes as adopted by the City. Square foot shall also include outdoor sales areas such as outdoor seating areas for restaurants, canopy areas for gasoline service stations, plant or gardening areas, and other covered areas utilized as part of a business activity.

Warehousing means a building that is designed or used as a warehouse facility, as defined in Section 16-86.5 of this Code.

Section 2. If any portion of this Ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

Section 3. The repeal or modification of any provision of the Municipal Code of the

City of Dacono by this Ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 4. All other ordinances or portions thereof inconsistent or conflicting with this Ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, ADOPTED ON FIRST READING, AND ORDERED PUBLISHED AND POSTED BY TITLE this 11th day of April, 2022.

PUBLIC HEARING AND SECOND READING WILL BE THE ____ DAY OF _____, 2022, AT 6:00 P.M. AT DACONO CITY HALL, 512 CHERRY STREET, DACONO, CO.

READ, ADOPTED ON SECOND READING, APPROVED, SIGNED, AND ORDERED PUBLISHED BY TITLE this ____ day of _____, 2022.

CITY OF DACONO, COLORADO

Adam Morehead, Mayor

ATTEST:

Valerie Taylor, City Clerk

Summary of Ordinance No. 922, “**AN ORDINANCE AMENDING SECTION 4-104 OF THE DACONO MUNICIPAL CODE REGARDING IMPACT FEE DEFINITIONS**”: Adopts additional definitions applicable to impact fees paid by new development.