ARTICLE III. IMPACT FEES[1]

Sec. 32-58. Levy and purpose.

Impact fees, and the administrative costs attendant thereto, are hereby levied on new construction and development in accordance with the schedule of impact fees adopted herein, and other provisions of this article, for the purpose of ensuring that new construction and development within the city bear its proportionate share of the cost of the capital expenditures necessary to provide facilities and equipment required to mitigate the impacts of the new growth.

(Code 1995, § 62-61; Ord. No. 2083, § 1, 9-25-2006)

Sec. 32-59. Applicability.

This article shall apply to all new construction within the city limits, unless otherwise exempted herein.

(Code 1995, § 62-62; Ord. No. 2083, § 1, 9-25-2006)

Sec. 32-60. Review of fee amounts.

(a) Impact fees shall be reviewed periodically, at least every five years, in accordance with a detailed analysis of projected construction within the city limits, the cost of any expanded or new capital facilities and equipment for city services generated by such construction and the money otherwise available to meet such costs.

(b) The city commission may make annual adjustments to the established impact fee rates to reflect changes in the cost of relevant capital facilities and equipment.

(c) All additions, amendments or adjustments in the established impact fee rates shall be made by ordinance, and shall apply only to construction for which building permits are issued after the effective date of such ordinance.

(Code 1995, § 62-63; Ord. No. 2083, § 1, 9-25-2006)

Sec. 32-61. Schedule of impact fees; calculation; administrative fee.

A 90-day notice will be given before the effective date of an ordinance imposing a new or increased impact fee. A local government is not required to wait 90 days to decrease, suspend, or eliminate an impact fee. Unless the result is to reduce the total mitigation costs or impact fees imposed on an applicant, new or increased impact fees may not apply to current or pending permit applications submitted before the effective date of a new or increased impact fee.

---

[1]State law reference(s)—Florida Impact Fee Act, F.S. § 163.31801.

	Schedule of impact fees; calculation; and administrative fee						
	(a)	Impact fees for new construction within the city limits shall be as follows: (Rates change on January 1 of each year after 2023)					
		Residential Per Housing Unit		*Parks*	*Multimodal*	*Public Safety*	*Total*
		Single unit	2023 Rate	$136.00	$732.00	$853.00	$1721.00
			2024 Rate	$151.00	$732.00	$948.00	$1831.00
			2025 Rate	$166.00	$732.00	$1042.00	$1940.00
			2026 and Beyond Rate	$182.00	$732.00	$1137.00	$2051.00
		2+ units per structure	2023 Rate	$73.00	$439.00	$460.00	$972.00
			2024 Rate	$81.00	$439.00	$511.00	$1031.00
			2025 Rate	$89.00	$439.00	$562.00	$1090.00
			2026 and Beyond Rate	98.00	$439.00	$614.00	$1151.00
		Non-Residential (per 1,000 square feet of floor area)					
		Industrial	2023 Rate		$267.00	$186.00	$453.00
			2024 Rate		$291.00	$186.00	$477.00
			2025 Rate		$291.00	$186.00	$477.00
			2026 and Beyond Rate		$291.00	$186.00	$477.00
		Commercial	2023 Rate		$1741.00	$573.00	$2314.00
			2024 Rate		$1864.00	$636.00	$2500.00
			2025 Rate		$1986.00	$700.00	$2686.00
			2026 and Beyond Rate		$2109.00	$764.00	$2873.00
		Institutional	2023 Rate		$614.00	$255.00	$869.00
			2024 Rate		$614.00	$284.00	$898.00
			2025 Rate		$614.00	$312.00	$926.00
			2026 and Beyond Rate		$614.00	$341.00	$955.00
		Office & other services	2023 Rate		$759.00	$597.00	$1,356.00
			2024 Rate		$818.00	$597.00	$1415.00
			2025 Rate		$877.00	$597.00	$1474.00
			2026 and Beyond Rate		$936.00	$597.00	$1533.00

	(b)	Uses that are not specifically set forth in the above schedule shall be calculated according to the most similar use on the schedule.
	(c)	The calculation of impact fees for new development shall be based upon the net increase in impact of the new development or redevelopment as compared to the most recent previous use.
	(d)	If a building permit is requested for a mixed-use development, then the impact fees shall be determined according to the fee schedule by apportioning the space committed to uses specified on the fee schedule.
	(e)	If the type of development activity is not specified on the fee schedule, the city manager shall use the fee applicable to the most nearly comparable type of land use shown on the fee schedule.
	(f)	An amount not to exceed three percent of the impact fee levied may be added to the total amount due for each impact fee, for the purpose of defraying administrative costs associated with the collection and monitoring of impact fees.

(Code 1995, § 62-64; Ord. No. 2083, § 1, 9-25-2006; Ord. No. 2281-2014, § 1, 7-28-2014)

Sec. 32-62. Payment of fees.

Collection of the impact fee may not be required to occur earlier than the date of issuance of the building permit for the property that is subject to the fee. Impact fees shall be paid in cash or cash equivalent, unless the city commission specifically accepts an in-kind contribution of land or capital facilities for public use. Credit for an in-kind contribution shall be on a fair market value basis as of the date the city commission accepts the offer of such contribution. The fair market value of any land accepted as an in-kind contribution shall be based upon an appraisal of its highest and best use then allowed under its current land use designation. Such appraisal shall be paid for by the donor.

(Code 1995, § 62-65; Ord. No. 2083, § 1, 9-25-2006)

Sec. 32-63. Capital expansion trust funds; created; fee deposit.

(a) *Funds created.* The following capital expansion trust funds are hereby created:

(1) Public safety capital expansion trust fund;

(2) Parks and recreational services capital expansion trust fund;

(3) Multimodal capital expansion trust fund;

(4) Municipal facilities capital expansion trust fund (suspended).

(b) *Deposit of fees.* All impact fees collected by the city shall be separately accounted for and shall be deposited only in the capital expansion trust fund for which they were collected.

(Code 1995, § 62-66; Ord. No. 2083, § 1, 9-25-2006; Ord. No. 2281-2014, § 1, 7-28-2014)

Sec. 32-64. Use of funds.

(a) Amounts in each capital expansion trust fund shall be used only for the purpose contained in the title of such fund and for no other purpose.

(b) Expenditures from each fund shall be specifically approved by the city commission and shall be limited to the expansion or acquisition of:

(1) Public capital facilities;

(2) Public capital equipment;

(3) Public capital improvements;

(4) Sustainability projects, including site-related improvements;

(5) An activity related to preserving existing public buildings for their intended or historic use;

(6) Impact fee studies, updates.

(c) Each project shall have been made necessary by the new construction from which the fees were collected or for principal payments (including sinking fund payments) on bonds to expand or acquire such facilities or equipment. Under no circumstances shall any such funds be used for maintenance activities, except that a road resurfacing project will be permitted, if it provides for increased capacity.

(d) Before authorizing any expenditure from any one of these trust funds, the city commission shall make a finding that:

(1) Such expenditure is for capital facilities, or capital equipment, or public capital improvement; or sustainability projects, or activities related to preserving existing public buildings for their intended use;

(2) Such expenditure is made necessary by new construction or development from which such funds were collected; and

(3) Such expenditure will result in a special benefit to the new construction or development from which such funds were collected or are a recoupment project.

(e) Funds shall only be used as specified in this section unless it is determined by the city commission that the impact fees so collected are recoupment-based impact fees. In that case, consideration may be given to using funds for public capital facility provisions related to new development apart from the purpose for which they were originally assessed. Fees shall be used first for debt repayment on public facilities. All improvements shall be of the type made necessary by the city's growth and development as shown in the adopted capital improvements plan.

(Code 1995, § 62-67; Ord. No. 2083, § 1, 9-25-2006)

Sec. 32-65. Capital expansion plans.

The city commission shall prepare and maintain a capital expansion plan for each such fund. These plans shall be reviewed at least annually during the budget review process.

(Code 1995, § 62-67; Ord. No. 2083, § 1, 9-25-2006)

Sec. 32-66. Time of payment; remedies for nonpayment.

Except as otherwise provided, impact fees shall be due and payable at the time of issuance by the city of a building permit for new construction and shall not be refundable once a building permit has been issued. No building permit on such new construction shall be issued until all applicable impact fees have been received by the city.

(Code 1995, § 62-68; Ord. No. 2083, § 1, 9-25-2006)

Sec. 32-67. Independent fee calculation study.

The city or an impact fee payer may prepare an independent fee calculation study for the development activity for which a building permit is sought. If prepared by the fee payer, the independent fee calculation study shall follow generally accepted calculation methodologies and formats which are acceptable to the development director. All relevant data, analysis, and reports necessary for the development director to make a recommendation to the city manager shall be provided. Within 15 working days after receiving a complete independent fee calculation study, as determined by the development director, the development director shall issue a written recommendation to the city manager, a copy of which shall be provided to the fee payer, on whether to adjust the applicable impact fees. The independent fee calculation study shall follow generally accepted calculation methodologies and formats which are acceptable to the city manager, and which conform to the requirements established in Homebuilder's and Contractor's Association of Palm Beach County v. Board of County Commissioners of Palm Beach County, 446 So.2d 140 (Fla. 4th DCA 1983). The burden shall be upon the fee payer to provide all relevant data, analysis, and reports necessary for the city manager to make a determination. Within 15 working days after receiving a complete independent fee calculation study and the development director's recommendation, the city manager shall issue a written decision to the fee payer adjusting or refusing to adjust the applicable impact fees. In addition to any other fee charged herein, the city shall charge an additional one percent of the impact fee as a fee for reviewing the independent fee calculation study.

(Code 1995, § 62-69; Ord. No. 2083, § 1, 9-25-2006; Ord. No. 2281-2014, § 1, 7-28-2014)

Sec. 32-68. Exemptions, credits, and deferrals.

(a) *Exemptions.* The following shall be exempted from the payment of impact fees:

(1) Alteration, expansion or replacement of an existing residential building where no additional living units are created, where the use is not changed, and no additional vehicular trips will be produced over and above that produced by the existing use.

(2) Alteration, remodeling or replacement of an existing nonresidential building or structure where the use is not changed, and the square footage and/or parking is not increased.

(3) The construction of accessory buildings or structures that do not create an additional impact on public capital facilities over and above that produced by the principal building or use of the land.

(4) An exemption must be claimed by the fee payer prior to the issuance of a building permit. Any exemption not so claimed shall be deemed waived by the fee payer.

(b) *Credits.*

(1) All reductions in the amount due for impact fees must be approved by the city commission.

(2) The value of any donation or dedication of public capital facilities above and beyond those improvements that are necessary for the project but have been required of the fee payer under a city

development order shall be deducted from the impact fees otherwise due and owing for the project. In the event that the value of the donation exceeds the total amount of impact fee payments due for the project, there shall be no refund or transfer and the balance due for impact fees shall be deemed zero.

(3) The fee payer will provide the following information to the city manager for a determination of the value of any donation or dedication:

a. An independent property appraisal report prepared by an individual who is both a member of the appraisal institute (MAI) and a state-certified general appraiser acceptable to the city manager, containing the following:

1. Purpose of the appraisal.

2. Legal description of property, including a minimum of five years delineation of title.

3. Present use and zoning.

4. Utilities.

5. Type and condition of improvements and special features that may add to or detract from the value of the property.

6. Highest and best use of the property on which the appraisal is based before the acquisition of rights and interests to be acquired and the highest and best use of the remainder after the acquisition when a partial taking is involved. In either instance, if the existing use is not the premises on which the valuation is based, the appraisal will contain an explanation justifying the determination that the property is available and adaptable for a different highest and best use and there is a demand for that use in the market.

7. Before and after valuation as interpreted by state law will be used in partial donations or special benefits to the residue land or improvements.

8. Approaches to value including all applicable approaches to value. If an approach is not considered applicable, the appraiser must state why. All pertinent calculations used in developing the approaches will be shown.

A. In the market approach, the appraisal report will contain a direct comparison of pertinent comparable sales to the property being appraised. The appraiser must include a statement setting forth his analysis and reasoning for each item of adjustment to comparable sales.

B. Where the income (capitalization) approach is used, there must be documentation to support the income, expenses, interest rate, capitalization rate, discount rate, or any other factors used in the analysis. Where it is determined that the market rental income is different from the existing or contract income, the increase or decrease must be explained and supported by market information.

C. Where the cost approach is utilized, the appraisal report must contain the specific source of cost data, remaining economic life, and an explanation of each type of accrued depreciation.

9. Appraisal after value must be supported to the same extent as the appraisal of the before value. This support should include one or more of the following:

A. Sales comparable to the remainder properties.

B. Sales of comparable properties from which there have been similar donations or acquisitions for like usages.

C. Development of the income approach on properties which show economic loss or gain as a result of similar acquisition or taking for like usages.

D. Public sales of comparable lands by the state or other public agencies.

E. If the data described in subsections (b)(3)a.9.A. through (b)(3)a.9.D. of this section are not available the appraisal will so state and give the appraiser's reasoning for his value estimate.

b. The difference between the before and after appraisal will represent the value of property to be acquired including the damages to the remainder property. The appraiser will separately analyze and tabulate the difference showing a reasonable allocation of site improvements and damages.

c. Where two or more of the approaches of value are used, the appraisal will show the correlation of the separate indications of value derived by each approach along with a reasonable explanation for the final conclusion of value. This correlation will be included for both before and after appraisals.

d. All appraisal reports should include identified photographs of the subject property including all principal aboveground improvements or unusual features affecting the value of the property to be taken or damaged.

e. Appraisal reports will contain a survey and sketch or plat of the property showing boundary dimensions, location of improvements and other significant features of the property.

f. Each appraisal report will contain or make reference to the comparable sales which were used in arriving at the fair market value. Comparable sales data must state the date of sale, names of parties to the transaction, consideration paid, financing, conditions of sale and with whom these were verified, the location, total area, type of improvements, appraiser's estimate of highest and best use at the date of sale, zoning, and any other data pertinent to the analysis and evaluation thereof. If the appraiser is unable to verify the financing and conditions of sale from the usual sources such as buyer, seller, broker, title or escrow company, etc., he will so state. Pertinent comparable sales data should include identified photographs of all principal above ground improvements or unusual features affecting the value of the comparable sales.

g. All properties appraised and the comparable sales which were relied upon in arriving at the fair market value estimate will be personally inspected in the field by the appraiser and all dates of inspection will be shown in the appraisal report.

h. The effective date to which the valuation applies.

i. A statement of appropriate content and limiting conditions, if any.

j. The certification, signature, and date of signature of the appraiser.

k. Actual new build cost of facility may be used for determination of reductions.

(4) No value or amount shall be deducted from the amount of impact fees due for site-related improvements.

(c) *Deferral or reductions of impact fee payments for affordable housing.*

(1) *Deferrals or reductions.* Prior to the application for a building permit, builders of affordable housing for very-low-income, low-income, and moderate-income households may request that the payment of impact fees be reduced or deferred until the issuance of the certificate of occupancy or one year after the issuance of the building permit, whichever is earlier. This deferral or reduction is available only when the affordable housing has been certified by the city development director, as meeting the criteria established by the city for affordable housing.

(2) Approval of deferrals or reductions will be made to applicants who meet the criteria and shall be determined on a case-by-case basis by the city manager.

(3) *Reduced city road impact fees for "de minimus" projects within the city's community redevelopment area (CRA).* Projects within the city's community redevelopment area (CRA) which are deemed to be "de minimus," that is ten residential units or less, 2,000 square feet of office space or less, or 1,000 square feet of retail space or less, or up to a 20-seat sit-down restaurant, are entitled to a 35 percent reduction in the city's multimodal impact fee.

(d) *Transfer of city surplus residential units.* The transfer of surplus residential units shall be permitted on a project-by-project basis subject to the following.

City surplus residential units shall be defined as all residential impact fees historically existing on a parcel of property that would have otherwise been available to use as a set off toward the cost of impact fees that may have been due or payable when redeveloping the property.

(1) A request to permit the transfer of surplus residential units, if any, shall be submitted simultaneously with the property owner's application for development order or permit in the event of straight zoning applications.

a. All requests to permit the transfer of surplus residential units shall be approved by the city commission.

b. Untimely request shall not be considered and shall be deemed waived.

(2) The city shall establish an account in the name of the owner of record and document the account so that it accurately reflects the surplus residential units to the parcel of land which is the subject of the city resolution as determined by the city commission. In the event the owner of record desires to transfer any portion of the surplus residential units to another parcel, and the city commission has previously approved the number of surplus residential units by resolution, the owner of record shall submit a notarized affidavit to the city manager or designee indicating which parcel will be the recipient of the surplus residential units. Upon receipt of the notarized affidavit and payment of the administrative fee, the surplus residential units shall be transferred to a similar account established for the transferee parcel. The applicant shall pay an administrative fee of $2,000.00 at the time of transfer.

(3) The transfer shall become effective upon issuance of a written confirmation or receipt by the city that the surplus residential units have been distributed from the original parcel to the new parcel.

(4) In no event shall the transferee be entitled to further transfer those same units to a second parcel.[2]

(5) All other provisions, policies and procedures that are applicable to the payment of impact fees shall be applicable to the transfer of surplus residential units.

---

[2]Editor's note(s)—The legislative intent is to allow transfers to more than one location but only allow the transfer to occur one time. For example, if parcel A has ten surplus units, it can transfer four units to parcel B, four units to parcel C and ten units to parcel D. But the four units that were transferred to parcel B could not be used to create surplus units on parcel B nor could they be transferred from parcel B to any other parcel. Therefore, if the owner of parcel A inadvertently transferred too many units to parcel B and the excess units were not used in the development, they would expire because they have already been transferred once. On the other hand, parcel A could transfer two units to parcel B and then at another time transfer two more units to parcel B and again transfer two more units to parcel B as long as the units being transferred had originated on parcel A and had never been transferred before.

(e) *Procedure for transfer.* No surplus units shall be transferable until such time as the city commission has passed a resolution approving the transferability of the excess units.

(1) The resolution shall identify the original source of the surplus residential units.

(2) The resolution shall determine the number of excess units and provide a basis for this determination.

a. It is the intention of this section that the resolution provide detailed information pertaining to the calculation of the excess impact fees.

(3) At no time shall the number ever exceed the original units and impact fees determined for the parcel.

(4) Unused units shall not be refunded. If surplus residential units are assigned or transferred to a new parcel, there shall be no claim for refund if the transferred value isn't used at the time of the issuance of the permit. Upon issuance of the permit, the parcel that has received a transfer shall be deemed to have zero remaining units.

(f) *Expiration of impact fee units.* Unless a longer time period is specifically authorized by the city commission in a development approval all surplus residential units determined by resolution of the city shall expire at the end of ten years from the date of the resolution authorizing them.

(Code 1995, § 62-70; Ord. No. 2083, § 1, 9-25-2006; Ord. No. 2281-2014, § 1, 7-28-2014 ; Ord. No. 2426-2020 , § 1, 1-27-2020)

Sec. 32-69. Refunds.

(a) Any funds not expended, or encumbered, or programmed in the capital expansion plan by the end of the calendar quarter immediately following six years from the date the impact fee was paid shall, upon application of the fee payer within 180 days of that date, be returned to the fee payer with statutory simple interest. Funds shall be encumbered and expended in the order in which they were collected.

(b) Notwithstanding the six-year requirement in subsection (a) of this section, if at any time a building permit expires, is cancelled or revoked, the structure has not been completed, and no certificate of occupancy has been issued or no construction has been commenced and the impact fee revenues have not been expended or encumbered, then the fee payer shall be entitled to a refund, without interest, of the impact fees paid, less an administrative fee of three percent to offset the costs of collection and refund. The fee payer must submit an application for such a refund to the city development director within 30 days of the expiration of the building permit.

(c) The application for a refund must contain a dated receipt issued for payment of the impact fee, the building permit or other permit for which the impact fees were paid, evidence that the applicant is the fee payer or a successor in interest to the fee payer, and a determination of whether the impact fee revenues have been expended or encumbered, upon application. At the option of the fee payer:

(1) The fee payer shall apply to the city development director and shall receive a full monetary credit in the amount of the prepaid fee which shall remain valid and run with the land for a period of ten years from the date of receipt of the credit;

(2) The fee payer may apply to the city commission, and enter into a cost reimbursement agreement in which the fee payer shall be repaid over the next five years, up to the full amount of the fee paid by the fee payer less the administrative charge of three percent to offset the cost of collection and refund, provided that the timely and efficient provision of programmed facilities are not adversely impacted; or

(3) At the sole option of the city commission, a cash refund may be given for good cause shown.

(Code 1995, § 62-71; Ord. No. 2083, § 1, 9-25-2006)

Sec. 32-70. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Encumbered impact fee revenue means the commitment by the city commission of impact fees for the purpose of expenditures on the planning or design of, land acquisition for, or construction of capital improvements that provide a benefit to new growth and development. For the purpose of this article, impact fee revenues shall be considered encumbered when any impact fee supported facility benefiting the district in which the development is located is included in the city's annual budget or adopted capital improvements plan, or deemed encumbered by resolution of the city commission.

Fee payer means a person commencing a land development activity who is requesting the issuance of a building permit.

Multimodal improvement means (in addition to traditional automobile-bases improvements) the provision of safe and efficient movement by walking, cycling, and transit service while also taking advantage of opportunities to improve traffic flow circulation on public roads.

Public capital equipment means equipment with an expected-use life of three years or more.

Public capital facility means city parks, city waterfront facilities and access, boat ramps, open space/conservation lands; transportation facilities and enhancements, including roadway segments, pedestrian and bicycle pathways, police and law enforcement buildings, motor vehicles, communications equipment, and any other capital equipment related to law enforcement facilities; fire protection, fire prevention, emergency medical services, emergency shelter buildings and capital equipment; other public buildings and capital equipment for city administration and operations, acquisition of land or sites for public capital facilities; and building design and facility need studies which are listed in the adopted capital improvements plan.

Public capital improvement means planning, preliminary engineering, design studies, legal work, land surveys, right-of-way acquisition, engineering, land acquisitions, site improvements including exotic plant removal, buildings, capital equipment, permitting and construction of all necessary features for any project contained in the adopted capital improvement plan, but excludes operations and maintenance.

Public safety improvement means the provision of capital items primarily in the areas of police and fire/EMS.

Recoupment means impact fee revenue that is received for facilities that are presently in place, benefiting new development.

Site-related improvements are capital improvements and right-of-way dedications for direct-access improvements to a planned development. Direct-access improvements include, but are not limited to, the following:

(1) Site driveways and roads within the development, access roads leading to and from the development, and the paving and/or improvement of a thoroughfare plan roadway segment where such improvement is necessary to provide paved access to and from the project, if the roadway segment is not scheduled to be improved within five years from the time of the credit agreement, as shown on the adopted capital improvements program;

(2) Right-turn and left-turn lanes leading to those roads and driveways, acceleration and deceleration lanes;

(3) Traffic control measures and devices (including signs, marking, channelization and signals) for those roads and driveways within the development;

(4) Internal roads; and

(5) Rights-of-way.

Sustainability project means a project that is designed to enhance and maintain the character of the city, including, but not limited to, the implementation of selected best development practices, and the provision of streetscape improvements, waterfront improvements, and bicycle and pedestrian facilities.

(Code 1995, § 62-72; Ord. No. 2083, § 1, 9-25-2006; Ord. No. 2281-2014, § 1, 7-28-2014)

Sec. 32-71. Appeals.

Any determination made by the city development director or city manager in reference to this article may be appealed to the city commission by filing an appeal with the city manager within 30 days of such decision. The city manager shall schedule the appeal for consideration by the city commission at the next available regular meeting or at a special meeting within 30 days for the purpose of hearing the appeal. The city commission shall render a decision within 60 calendar days of the date of the regular meeting at which the appeal was considered unless good cause is shown and made part of the record, or provided that the appellant has not requested a postponement of the matter.

(Code 1995, § 62-73; Ord. No. 2083, § 1, 9-25-2006)

Secs. 32-72—32-100. Reserved.