

DIVISION 5. - IMPACT FEES

Footnotes:

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Editor's note— Ord. No. 2006-017, § 1, adopted May 11, 2006, amended the Code by changing the title of Div. 5 from "Affordable Housing Program" to "Impact Fees".

Sec. 13-110. - Purpose and intent.

The city commission has determined that the public health, safety and general welfare requires the implementation of an affordable housing program for the following purposes:

- (1) To implement the goals, policies and objectives of the city's comprehensive plan.
- (2) To provide housing opportunities for workforce and lower income families in order to meet the existing and anticipated housing needs of such persons and to maintain a socio-economic mix in the community.
- (3) To satisfy the community's obligation to provide that a fair share of the community's housing production is affordable to workforce and lower income families.
- (4) To provide for a range of housing opportunities for those who work in the City and who provide the community with essential services but cannot afford to live in the community.
- (5) To provide that developments which create additional affordable housing demand within the city share in the responsibility to provide affordable housing.

(Ord. No. 2006-005, § 2, 3-9-06)

Sec. 13-111. - Definitions.

The following definitions shall be incorporated into this ordinance for reference purposes:

Affordable/attainable housing. Housing that is affordable to very low, low, and moderate-income persons by not requiring that more than forty (40) percent of household income be spent on housing costs, as further described by the Nexus Study.

Residential construction. Enclosed building and floor areas used for living and habitation including screened porches, recreation rooms, guest houses, but excluding garages, carports, open balconies, screen pool enclosures, cabanas, attics and storage sheds.

Square footage. Square footage shall be calculated in the same method as defined and utilized within the Florida Building Code for gross floor area.

Non-residential construction. Enclosed building and floor areas used for non-residential purposes, but excluding parking decks or garages, carports or covered parking, attics, external mechanical or storage buildings.

Mixed-use project. Any project that contains a development program of residential and non-residential use within the proposed project boundaries and is submitted as such under a mixed-use zoning classification.

(Ord. No. 2006-005, § 2, 3-9-06)

Sec. 13-112. - Affordable housing linkage fee.

In order to implement an affordable housing program, an affordable housing linkage fee is hereby established, to be paid at the time of the issuance of building permits for all non-residential development. The amount of the fee is hereby established per the following table:

Type of use	Linkage fee
Industrial	\$0.37 per square foot
Commercial	\$1.36 per square foot
Office	\$0.15 per square foot
Hotel	\$2.42 per square foot
Limited service hotel	\$0.70 per square foot

(Ord. No. 2006-005, § 2, 3-9-06)

Sec. 13-113. - Assessment.

The affordable housing linkage fee shall be assessed for all new non-residential construction, non-residential construction within a mixed-use project, building additions and on the renovation of existing buildings and building space when the building permit value of the renovation or improvement exceeds fifty (50) percent of the replacement cost of the building or building space at the time of the construction.

(Ord. No. 2006-005, § 2, 3-9-06)

Sec. 13-114. - Alternatives to payment of affordable housing linkage fee.

As an alternative to payment of the housing linkage fee, a developer of non-residential project or mixed-use project may submit a request to produce affordable housing units, which request can be granted in the form of a developer's agreement approved by the city commission.

(Ord. No. 2006-005, § 2, 3-9-06)

Sec. 13-115. - Exemptions.

The following buildings constructed within the city shall be exempt from the affordable housing linkage fee:

- (1) Non-residential building construction that constitutes the exempt use of property for education, religious, charitable or governmental use, as defined by F.S. ch. 196, or that is used for such purposes by organizations which qualify for exemption from taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.
- (2) Interpretations or doubts as to the applicability of these exemptions shall be decided by the director of sustainable development. An appeal may be filed pursuant to the procedures set forth in section 13-34.
- (3) If a development is exempt from the fee at initial construction, but later converts to a new non-residential development project, the converted square footage will be deemed net new non-residential square footage and the housing impact fee paid shall be a condition of the building permit certificate of occupancy.

(Ord. No. 2006-005, § 2, 3-9-06; Ord. No. 2015-053, § 6, 10-8-15)

Sec. 13-116. - Independent impact analysis.

A developer may choose to use an independent impact analysis to compute the impact fee due as a result of a development. The director of sustainable development shall have the authority to approve or disapprove the person who prepares the independent impact analysis on the basis of the person's professional training and experience in preparing development impact analyses. The developer shall be responsible for the preparation of the independent impact analysis which shall be reviewed by the department of sustainable development and forwarded to the planning and zoning board and city commission for review and consideration. The requirement to pay the housing impact fee may be adjusted or waived if the developer demonstrates by substantial, competent evidence, that an insufficient nexus exists between the proposed use and the housing impact fee.

(Ord. No. 2006-005, § 2, 3-9-06; Ord. No. 2024-012, § 2, 4-11-24)

Sec. 13-117. - Trust fund established.

- (a) An affordable housing linkage fee trust fund is hereby established. All fees collected under this section shall be deposited within this fund, and shall be expended only for those purposes budgeted and authorized by the city commission.
- (b) The city commission shall use the funds deposited within the affordable housing linkage fee trust fund for the following purposes:
 - (1) Construction of affordable housing units.
 - (2) Acquisition of land for affordable housing unit construction.
 - (3) Assistance for first-time home buyers, following guidelines to be adopted and established by the city commission by resolution.
 - (4) Preservation of existing affordable housing supply.
 - (5) Rental assistance and relocation assistance.
 - (6) Reasonable administrative costs and expenses of the program.

The above list is not exhaustive, and the city commission by resolution may add or remove alternative affordable housing programs.

(Ord. No. 2006-005, § 2, 3-9-06)

Sec. 13-118. - Findings.

The Coconut Creek City Commission ("Commission") makes the following findings in support of the creation of this division and the adoption and imposition of police and fire/rescue impact fees:

- (1) New development and growth in the city can add to and help maintain the quality of life in the city under a balanced growth management program.
- (2) Effective growth management is promoted when adequate public facilities are available to serve new growth coincident with the impacts of that growth.
- (3) The commission has caused an impact fee report in support of this impact fee ordinance to be completed and submitted to the city.
- (4) As set forth in the impact fee report:
 - a. New development should assume a fair share of the cost of providing adequate police and fire/rescue facilities.
 - b. Impact fees are an equitable and appropriate means to help finance the capital costs of additional and expanded facilities needed to serve new development.
- (5)

The implementation of police and fire/rescue impact fees requires new development contribute its fair share of the cost of capital improvements necessitated by growth caused by such development, promotes the general welfare of all city residents.

- (6) The provision of police and fire/rescue facilities that are adequate for the needs of growth caused by new development promotes the general welfare of all city residents and constitutes a public purpose.
- (7) Requiring new development to contribute its fair share of the cost of required capital improvements serves as a regulatory tool that promotes the timing and management of growth in the city.
- (8) Ad valorem tax revenue and other revenues will not be sufficient to provide the additional capital improvements for the police and fire/rescue facilities which are necessary to accommodate new development.
- (9) The impact fee report provides an adequate and lawful basis for the adoption and imposition of police and fire/rescue facilities impact fees in accordance with this division.

(Ord. No. 2006-017, § 2, 5-11-06)

Sec. 13-119. - Established.

As a condition of the issuance of a building permit for the initial construction of or substantial reconstruction or expansion of a building, the person, firm or corporation which or who has applied for the building permit shall pay the police and fire/rescue impact fees that are set forth in this division.

(Ord. No. 2006-017, § 2, 5-11-06)

Sec. 13-120. - Definitions.

For the purpose of this division, certain terms and words are defined herein. Additionally, words used in the present tense shall include the future; the singular number shall include the plural, and the plural the singular:

Building permit shall mean a permit issued by the building official for the construction, enlargement, alteration, modification, repair, move, demolition, or change in the occupancy of a building or structure.

Capital improvements shall mean physical assets constructed or purchased to provide, improve or replace a public facility and which are large scale and high in cost. The cost of a capital improvement is generally nonrecurring and may require multi-year financing.

Fee-payer shall mean any person, firm, or corporation intending to commence new development who, during the life of the development, applies for the issuance of a building permit.

Impact fee report shall mean the Public Safety Impact Fees Report prepared by James C. Nicholas, PhD, dated February 22, 2006, which establishes the basis for the fair share of capital facilities costs attributable to new residential and non-residential development based upon standard and appropriate methodologies, and a copy of which is attached to and incorporated by reference into the ordinance creating this division. The city clerk shall keep a copy of this report on file.

New development shall mean the carrying out of any building activity or the making of any material change in the use or appearance of any building or structure or land, which results in an additional impact or demand on police and fire/rescue facilities.

Residential air-conditioned area shall mean the floor area of a residential structure that is designed to be provided with air conditioning and/or heat, and is not the gross floor area of the structure.

Site plan shall mean a document(s) which establishes the development standards for a proposed project, including engineering standards, set backs, square footages, architecture, paving material, landscaping, and other information required by the city.

Site plan approval shall mean final approval of the site plan by the city commission.

Site plan approval effective date shall mean the date that the supporting zoning ordinances are finally approved and adopted by the city commission. If no zoning ordinances are needed, this date shall be the date the final site plan is approved by the city commission.

(Ord. No. 2006-017, § 2, 5-11-06; Ord. No. 2006-037, § 1, 11-9-06; Ord. No. 2017-008, § 2, 1-11-18)

Sec. 13-121. - Imposition of fees.

- (a) There are assessed, charged, imposed, and enacted police and fire/rescue impact fees on all new development occurring within the city. These fees will be assessed, charged, or imposed in accordance with the fee schedule below. A three (3) percent administrative fee has been added to defray the city's cost of administration of the program:

Schedule of Police and Fire/Rescue Impact Fees
Including 3% Administrative Charge

	Police	Fire and rescue	Total
Residential - Floor area per sq. ft.	\$.156	\$.293	\$.449
Hotel/motel - per sq. ft.	\$.156	\$.293	\$.449
Retail auto dealers - per sq. ft.	\$.484	\$.293	\$.777

Gas stations - per sq. ft.	\$4.905	\$.293	\$5.198
Other retail - per sq. ft.	\$.648	\$.293	\$.941
Offices and industry - per sq. ft.	\$.911	\$.293	\$1.204
Institutional - per sq. ft.	\$1.055	\$.293	\$1.348

- (b) If a building permit is requested for mixed uses, then the fee shall be determined through measuring the space committed to each of the uses reflected in the building permit as listed in the fee schedule, and charging the appropriate fee for each use.
- (c) If a building permit is applied for and includes a land use that is not specified on the fee schedule, the city shall use the fee applicable to the most nearly comparable type of land use on the fee schedule.
- (d) In the case of change of use, redevelopment, or expansion or modification of an existing use which requires the issuance of a building permit, the impact fee shall be based only upon the additional impact the new development will have on police and fire/rescue facilities.
- (e) Police and fire/rescue impact fees shall not be assessed or collected on any development with an approved site plan that has an effective date prior to May 11, 2006.

(Ord. No. 2006-017, § 2, 5-11-06; Ord. No. 2006-037, § 1, 11-9-06)

Sec. 13-122. - Payment.

The impact fees shall be paid to the city by the fee-payer at the time the building permit is issued.

(Ord. No. 2006-017, § 2, 5-11-06)

Sec. 13-123. - Disposition of fees.

All fees collected by virtue of section 13-122 and any interest earned on them shall be deposited in two (2) special and separate accounts to be designated, "police impact fees account," and "fire/rescue impact fees account," respectively. Funds from these accounts may be expended for land acquisition for the respective facilities. Funds from these accounts may also be expended for the construction of capital improvements for the respective police and fire/rescue facilities, and the remodeling or enlargement of existing facilities and the equipping of same, if necessitated by the impact of new development. However, funds withdrawn from an account must be expended on the specific facilities for which the fees were collected (i.e., police fees may only be spent on police facilities). In addition to the foregoing, funds from these accounts may be expended for retirement of loans and/or bonds that may be issued to finance the

capital improvements herein contemplated. Furthermore, these funds may be expended for architectural, engineering, legal and other professional fees and expenses related to capital improvements. However, the city shall not expend funds from any of these accounts for maintenance, repairs, salaries, or other non-capital or non-capital-related items. Each expenditure of funds from these accounts shall be authorized by the commission.

(Ord. No. 2006-017, § 2, 5-11-06)

Sec. 13-124. - Exemptions

The following shall be exempted from payment of the impact fee:

- (1) Alterations or expansion of an existing residential building where no additional air-conditioned space is created, where the use is not changed, and where no additional dwelling units are created.
- (2) Alterations or expansion of an existing non-residential building where no additional floor area is created and where the use is not changed.
- (3) The construction or expansion of accessory buildings or structures.
- (4) The replacement of a building or structure with a new building or structure of the same size and use when an impact fee for such building or structure has previously been paid pursuant to this division or where a building or structure legally existed on the site on or prior to the effective date of this division.
- (5) The installation of a replacement mobile home vehicle on a lot or other such site when an impact fee for such mobile home vehicle site has previously been paid pursuant to this division or where a mobile home vehicle legally existed on such site on or prior to the effective date of this division.

Any claim of exemption must be made no later than the time of application for a building permit.

Any claim not so made shall be deemed waived.

(Ord. No. 2006-017, § 2, 5-11-06)

Sec. 13-125. - Credits.

Fee-payers may receive credit against impact fees otherwise due for land and/or capital improvements. Land or capital improvements may be offered by the fee-payer as total or partial payment of a required impact fee. Capital leases may also be offered as total or partial payment of a required impact fee. The offer must request or provide for an impact fee credit. If the city accepts such an offer, the credit shall be determined and provided in the following manner:

- (1)

Credit for the dedication of land shall be valued at fair market value established by private appraisers acceptable to the city.

- (2) Credit for the dedication of land shall be provided when the property has been conveyed at no charge to, and accepted by, the city in a manner satisfactory to the city.
- (3) Applicants for credit for construction of capital improvements shall submit acceptable engineering drawings and specifications, and construction cost estimates to the city. The city shall determine credit for construction based upon either these cost estimates or upon alternative engineering criteria and construction cost estimates if the city determines that such estimates submitted by the applicant are either unreliable or inaccurate. The city shall provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, and the legal description or other adequate description of the project or development to which the credit may be applied.
- (4) Except as provided in subsection subsection (5), credit against impact fees otherwise due will not be provided until:
 - a. The construction is completed and accepted by the city.
 - b. A suitable maintenance and warranty bond is received and approved by the city, when applicable.
- (5) Credit may be provided before completion of specified improvements if the fee-payer posts security as provided below for the costs of such construction. Security in the form of a performance bond or irrevocable letter of credit shall be posted with and approved by the city in an amount determined by the city. If the construction project will not be constructed within one (1) year of the acceptance of the offer by the city, the amount of the security shall be increased by ten (10) per cent compounded, for each year of the life of the security. If the construction project is not to be completed within five (5) years of the date of the fee-payer's offer, the city commission must approve the construction project and its scheduled completion date prior to the acceptance of the offer by the city.
- (6) Credits for donations may be used only for that type of impact fee;
 - a. Credit for fire/rescue protection land or capital improvement donations may only be used to against fire/rescue impact fees otherwise due;
 - b. Credit for police impact land or capital improvement donations may only be used to against police protection impact fees otherwise due;
- (7) Credit for a capital lease will be valued at the fair market value of such lease. "Capital Lease" shall mean a lease that satisfies the requirements of Financial Accounting Standard No. 13, as set by the financial accounting standards board.

Any claim for credit must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.

(Ord. No. 2006-017, § 2, 5-11-06; Ord. No. 2006-037, § 1, 11-9-06)

Sec. 13-126. - Refund of fees paid as required by this division.

All impact fees imposed by the requirements of this division, shall be refunded to the existing property owner if one of the following conditions occur:

- (1) If a building permit expires without commencement of construction, then the fee-payer shall be entitled to a refund, without interest, of the impact fee paid as a condition for its issuance except that the city shall retain three (3) percent of the fee to offset a portion of the costs of collection and refund. The fee-payer must submit an application for such a refund to the city clerk within thirty (30) days of the expiration of the permit, or any such claim shall be denied; or
- (2) Any funds not expended or encumbered by the end of the calendar quarter immediately following six (6) years from the date the impact fee was paid shall, upon application of the then current landowner, be returned to such landowner together with the interest earned while held in an impact fee fund, provided that the landowner submits an application for a refund to the city clerk of within one hundred eighty (180) days of the expiration of the six (6) year period, or any such claim shall be denied.

(Ord. No. 2006-017, § 2, 5-11-06)

Secs. 13-127—13-130. - Reserved.