

PART II: CODE OF ORDINANCES

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CHAPTER 13 – LAND DEVELOPMENT CODE

ARTICLE I – ADMINISTRATION, REGULATIONS AND PROCEDURES

DIVISION 5 – IMPACT FEES

Sec. 13-118. - Findings. Reserved.

~~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.~~

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~~(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.~~

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.~~

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.~~

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~~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.~~

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.~~

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.~~

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.~~

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.

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.~~

~~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.~~

Sec. 13-118.1 - Applicability.

This subsection applies to Impact Generating Projects for which a building permit is applied for after the effective date of adoption of the Ordinance. This subsection adopts impact fees to offset the City's costs to improve its Capital Improvement System to meet the needs of new development. This subsection does not exempt or affect requirements for payment of utility and other service fees, including but not limited to water and wastewater fees, affordable housing linkage fees, and public art.

Sec. 13-118.2 - Findings of fact, purpose and intent.

It is ascertained, determined and declared that:

- (a) Both existing development and development necessitated by the growth contemplated in the City's Comprehensive Plan will require improvements and additions to Fire-Rescue Facilities, Law Enforcement Facilities, and Parks and Recreation Facilities, of the City to accommodate and maintain existing levels of service.
- (b) Impact Generating Projects necessitating expansion of the City's Capital Improvement Systems should contribute their proportional and reasonable share of the cost of capacity-adding improvements and additions to Fire-Rescue Facilities, Law Enforcement Facilities, and Parks and Recreation Facilities required to accommodate capital improvement demands generated by such projects.
- (c) Implementation of a reasonable impact fee rate structure to require future Impact Generating Projects to contribute their proportionate share of the cost of required new capital improvement capacity is an integral and vital element of the regulatory plan of growth management incorporated in the City's Comprehensive Plan.
- (d) The projected Capital Improvements and additions to the Capital Improvement System of the City and the allocation of costs between those necessary to serve existing development and those required to accommodate new Impact Generating Projects, as presented in the "Impact Fee Study," dated September 30, 2024, adopted by the City Commission on [Commission Adoption Date] and are found to be in conformity with the City's Comprehensive Plan.
- (e) Capital Improvement planning is an evolving process, and the Capital Improvements and additions to the Fire-Rescue Facilities, Law Enforcement Facilities, and Parks and Recreation Facilities identified upon the date of adoption of the Ordinance from which this subsection is derived constitute projections of growth patterns and improvements and additions based upon present knowledge and judgement. Therefore, in recognition of changing growth patterns and the dynamic nature of population growth, it is the express intent of the City Commission that the identified improvements and additions to the Capital Improvement System be reviewed and adjusted periodically to ensure that the impact fees are imposed equitably and lawfully and are utilized effectively based upon actual and anticipated conditions at the time of their imposition.
- (f) The purpose of this division is to require payment of Citywide impact fees by new Impact Generating Projects and to provide for the cost of Capital Improvements to the City's Capital Improvement System, which are required to accommodate the additional demand caused by such Impact Generating Projects.
- (g) The City Manager designates the Director of the Department of Sustainable Development as the administrator of this subsection.

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- (h) This subsection shall not be construed to permit the collection of impact fees from Impact Generating Projects in excess of the amount reasonably anticipated to offset the proportional demand new growth will have on the City's Capital Improvement Systems.

Sec. 13-118.3 - Definitions.

For purposes of this division, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Terms used in this division but which are not defined, shall have the meaning set forth in Article III, Section 13-295, "Definitions," of the Land Development Regulations, Code of Ordinances, and/or the Institute of Transportation Engineers' Trip Generation Handbook, whichever is applicable.

Access improvements means improvements that are designed to improve safe and adequate ingress from an Impact Generating Project, which may include but are not limited to site related rights-of-way, easements, dedications/deeds, turn lanes, pavement improvements, on-street parking, associated pedestrian and bike facilities, deceleration and acceleration lanes, traffic control devices, signs and markings, drainage and utilities.

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.

Impact generating project means development designed or intended to permit a use of the land that will contain more impact units than the existing land use of the land, or that will otherwise change the use of the land in a manner that increases the demands upon the City's Capital Improvement System.

Capital improvement system means the Citywide Fire-Rescue Facilities, Law Enforcement Facilities, and Parks and Recreation Facilities provided by the City to serve the public health and welfare.

Director means the Director of the City's Department of Sustainable Development, or designee.

Fire-rescue facilities means the physical assets constructed or purchased that are necessary to provide and support fire-rescue services within the impact fee benefit district of the City.

Impact fee benefit district means the geographic area encompassed by the City of Coconut Creek corporate boundary at the time of the Impact Fee Study.

Impact fee rate means the cost per impact unit to provide the capital facilities necessary to support Impact Generating Projects as identified in the applicable impact

fee land use category set forth in the City’s Comprehensive Impact Fee Schedule as provided in Section 13-119, “Comprehensive Impact Fee Schedule.”

Impact fee study means the study titled “City of Coconut Creek Impact Fee Study” dated September 30, 2024, adopted by the City Commission on [Commission Adoption Date].

Impact unit means an increment of development measured in dwelling units, building area, floor area, retail area, beds, or other similar measure identified in the Impact Fee Study.

Law enforcement facilities means physical assets constructed or purchased that are provided by the City for the purpose of providing police services within the impact fee benefit district of the City.

Level of service means the indicator of the extent or degree of service provided by, or proposed to be provided by a facility based on and regulated to the operational characteristics of the facility. Level of service shall indicate the capacity per unit of demand for each public facility.

Multi-family structure means building or structure containing two (2) or more dwelling units or two or more attached dwelling units.

Development means the carrying out of any building activity or the making of any material change in the use or appearance of any building, structure, or land, which results in an additional impact or demand on Law Enforcement, Fire-Rescue, or Parks and Recreation Facilities.

Offsite improvements means capital Improvements located outside of the boundaries of an Impact Generating Project that are required by the City in order to mitigate the demands of developments other than those of a proposed Impact Generating Project paying impact fees or requesting developer contribution credits. Offsite Improvements do not include Access Improvements.

Parks and recreation facilities means the physical assets constructed or purchased that provide and support community, neighborhood, and special facility open space, park and recreational activities within the impact fee benefit district of the City.

Single family structure means a building or structure physically detached from other buildings, dwelling units or structures containing only one (1) dwelling unit.

Sec. 13-118.4 - Adoption of impact fee study.

The City Commission adopts and incorporates by reference the study entitled “City of Coconut Creek Impact Fee Study” dated September 30, 2024, including the assumptions, conclusions and findings in the study as to the allocation of anticipated costs of Capital

Improvements and additions to the City's Capital Improvement System, between those costs required to accommodate existing development and those costs required to accommodate the demands of new Capital Improvement Projects generated by new growth contemplated in the comprehensive plan.

Sec. 13-118.5 - Fees imposed.

- (a) All Impact Generating Projects occurring within the City's Impact Fee Benefit District, after the effective date, shall either pay the impact fees established in this section or redeem equivalent and valid developer credits.
- (b) The impact fees are imposed on all Impact Generating Projects located in the City, at the rates established under the applicable land use category set forth in the City's Comprehensive Impact Fee Schedule adopted by ordinance of the City Commission.
- (c) A proposed Impact Generating Project shall pay the stated amount for each category of the Capital Improvement System at the time of building permit issuance.
- (d) Payment of impact fees under this subsection does not exempt an applicant from the requirement to provide Access Improvements, in accordance with the City's Code of Ordinance requirements, and/or any valid ordinance or regulation applicable to the proposed Impact Generating Project.

Sec. 13-118.6- Exemptions.

- (a) The following shall be exempted from payment of impact fees:
 - (1) Alteration, expansion or replacement of an existing mobile home or Multi-Family Structure, which does not increase the number of dwelling units in the structure.
 - (2) Alteration, expansion or replacement of an existing Single Family Structure, provided the alteration, expansion, or replacement does not increase the number of dwelling units in the structure or increase the square footage of the Single Family Structure from less than 2,500 square feet to 2,500 square feet or more.
 - (3) Alteration, expansion, or replacement of a building or use if, upon completion of the alteration, expansion, or replacement, the use does not generate greater demand for any Capital Facilities than the use did prior to the alteration, expansion or replacement.
 - (4) Construction of an accessory building which does not result in additional square footage or a land use generating greater demand for any Capital

Facilities than the property did prior to the construction of the accessory building.

- (5) Temporary construction sheds or trailers erected to assist in construction and maintained only during the term of a building permit.
 - (6) Public schools and charter schools, pursuant to Sections 1013.371(1)(a) and 1002.33(18)(d), Florida Statutes.
 - (7) The construction of publicly owned buildings used for governmental purposes.
 - (8) Temporary Uses permitted under the City Code of Ordinances or by the City Commission.
 - (9) Any other use exempt from impact fees under State law or the City Code of Ordinances.
- (b) The City shall not increase the Impact Fee Rates to offset any reduced revenue resulting from exemptions granted under this section, if any. In addition, to the extent an Impact Generating Project is exempt from payment of Impact Fees, the City will ensure sufficient funding availability to maintain Levels of Service.

Sec. 13-118.7 - Payment.

- (a) Except as otherwise provided in this Division, no person shall carry out any Impact Generating Project unless the appropriate Impact Fee as set forth in Sections 13-118.5, "Fees imposed," 13-118.9, "Calculation of Fees For Non-Listed Uses and Mixed-Uses," or 13-118.10, "Alternative Fee; Calculation," is paid at the time of issuance of the building permit for the Impact Generating Project, or if no building permit is required, prior to the issuance of a certificate of occupancy.
- (b) Except as provided in (c) below, each proposed Impact Generating Project shall be categorized by the Director according to the land use categories set forth in Section 13-119, "Comprehensive Impact Fee Schedule". The Director will categorize a proposed Impact Generating Project based on the meanings assumed in the Impact Fee Study, the Land Development Code, and/or the Institute of Transportation Engineer's' Trip Generation Handbook, whichever is most applicable.
- (c) If a proposed use is not specifically listed in the City's Comprehensive Impact Fee Schedule, and is determined by the Director not to apply to any listed land use category set forth in the City's Comprehensive Impact Fee Schedule, the provisions of Section 13-118.9, "Calculation of Fees for Non-Listed Uses and Mixed-Uses," of this subsection apply.

- (d) All impact fees required by this subsection shall be paid directly to the City of Coconut Creek.
- (e) The payment of impact fees shall be in addition to any other fees, charges, or assessments due for the issuance of a building permit, except as expressly provided otherwise by the City Code of Ordinances, or any applicable Ordinance related to fees.
- (f) The obligation for payment of the impact fee shall run with the land.
- (g) The City Commission may impose a reasonable administrative charge for the collection of impact fees, not in excess of actual costs.

Sec. 13-118.8 - Changes or expansions in use.

Impact fees shall be imposed and calculated for the alteration, expansion or replacement of a use, building or dwelling unit or the construction of an accessory building if the alteration, expansion, or replacement of the use, building or dwelling unit or the construction of an accessory building results in a land use determined to generate greater impacts on the City's Capital Improvement System than the present use under the applicable Impact Fee Category. The impact fee imposed under the applicable Impact Fee Category shall be calculated as follows:

- (a) When there is a change in land use, the impact fees imposed shall be the impact fees under the applicable Impact Fee Rate for the impact fee land use category resulting from the land use change less the impact fee that would be imposed under the applicable Impact Fee Rate for the impact fee land use category prior to the land use change or expansion.
- (b) Unless exempt pursuant to Section 13-118.6, "Exemptions," when the Gross Floor Area of a building is increased, but the type of use is not changed, the Impact Fee Rate shall be calculated based only on the increased Gross Floor Area.
- (c) Unless exempt by Section 13-118.6, "Exemptions," the impact fee imposed for any accessory buildings shall be that applicable under the Impact Fee rate for the land use for the primary building.

Sec. 13-118.9 - Calculation of fees for non-listed uses and mixed-uses.

- (a) If an Impact Generating Project involves a land use not listed under the impact fee land use categories set forth in the Comprehensive Impact Fee Schedule adopted by Ordinance of the City Commission, the Director shall determine the impact on the applicable category of Capital Improvement System to be generated by the proposed Impact Generating Project and shall calculate appropriate impact fees utilizing a methodology generally consistent with Section 13-118.10, "Alternative Fee; Calculation".

- (b) If an Impact Generating Project is a mixed-use project, the Director shall calculate the impact fees based upon the demand, by category of the Capital Improvement System, to be generated by each separate land use category included in the proposed mixed-use Impact Generating Project. Outparcels within larger developments shall be calculated individually and not included in the overall gross building area of the development.

Sec. 13-118.10- Alternative fee; calculation.

- (a) If an applicant believes that the impact to the Fire-Rescue Facilities, Law Enforcement Facilities, or Parks and Recreation Facilities caused by the applicant's proposed Impact Generating Project is less than the fees established in Section 13-118.5, "Fees Imposed," or Section 13-118.9, "Calculation of Fees For Non-Listed Uses and Mixed Uses," the applicant may, at their own expense, prior to the issuance of a building permit for such Impact Generating Project, submit a proposed calculation of an alternative impact fee to the Director pursuant to the provisions of this section. The Director shall make a determination within 30 business days of submittal, or as otherwise required by law, as to whether that calculation complies with the requirements of this section.
- (b) For purposes of any alternative impact fee calculation, the Impact Generating Project shall be presumed to have the maximum impact on the Capital Improvement System for the land use category contemplated under the Impact Fee Rate.
- (c) If an applicant decides to perform an alternative Impact Fee calculation, the methodology for such calculation shall be approved by the Director, based on the methodology adopted by the City Commission in the Impact Fee Study, before the applicant begins the new calculation. Through an alternative Impact Fee calculation, an applicant may calculate the demand component for a proposed development that is different than that described in the City's adopted Impact Fee Study. However, the cost and credit components for the alternative impact fee shall be those included in the City's adopted Impact Fee Study, adjusting for any indexing applied under Section 13-118.13, "Updating, Indexing, Annual Reporting, and Audits," or adjustments made by the City Commission to the fees calculated in the City's adopted Impact Fee Study.
- (d) An application for an alternative for Fire-Rescue Facilities, Law Enforcement Facilities, or Parks and Recreation Facilities impact fees shall include the following information:
- (1) Public facility demand for the proposed development, based on local empirical surveys for the same or similar land use types; and

- (2) Estimated population based upon local empirical surveys of similar land use types.
- (e) The alternative impact fee calculations shall be based on data, information or assumptions contained in this subdivision or independent sources, provided that:
 - (1) The independent source is a City accepted source of engineering or planning information; or
 - (2) The independent source is a local study supported by a database adequate for the conclusions contained in that study, performed by a professional engineer or planner, pursuant to a generally accepted methodology of planning or engineering.
- (f) If the Director determines that the data, information and assumptions utilized by the applicant to calculate the alternative impact fee comply with the requirements of this section, the alternative impact fee shall be paid in lieu of the fee set forth in Section 13-118.5, "Fees imposed," or Section 13-118.9, "Calculation of Fees For Non-Listed Uses and Mixed Uses".
- (g) If the Director determines that the data, information and assumptions utilized by the applicant to calculate the alternative impact fee do not comply with the requirements of this section, then the City shall provide to the applicant by written notification of the rejection of the alternative impact fee calculation, and the reasons therefore.

Sec. 13-118.11 - Developer contribution credits.

- (a) The City shall grant a credit against the impact fee imposed pursuant to this subsection for the construction of Offsite Improvements, other than access improvements, or the donation of land, to a category of the capital improvement system that the City requires or has required.
- (b) All impact fee credits associated with projects subject to a development of regional impact order shall be consistent with the provisions of Sections 380.06, 163.31801(5), and 163.31, Florida Statutes, and other applicable laws.
- (c) Impact fee credits are assignable and transferable from one property to another in the same impact fee zone or an adjacent zone that receives benefits from the improvement or contribution that generated credits.
- (d) In order to receive a credit for the construction of Offsite Improvements, the Director must determine that:
 - (1) The proposed Capital Improvements either:

- a. Are already included in the City's Five Year Capital Improvement Plan or were at the time the obligation arose;
 - b. Are substantially similar in nature and extent to the same category of the Capital Improvement System included on the City's Five Year Capital Improvement Plan; or
 - c. The proposed Offsite Improvements are an integral part of, or necessary addition to, an existing improvement identified in the City's Five Year Capital Improvement Plan.
- (e) Unless established otherwise by the Director, based on prior documentation, the amount of credit resulting from a Capital Improvement obligated prior to the effective date of this subsection shall be the present value of the obligated improvements minus the maximum impact fee calculated under the City's Comprehensive Impact Fee Schedule or as determined under Section 13-118.10, "Alternative Fee; Calculation".
- (f) The amount of a developer contribution credit proposed after the effective date of this subsection shall be determined according to the following standards of valuation:
- (1) The value of donated land shall be based upon a written appraisal of fair market value by an MAI, Member of the Appraisal Institute, certified appraiser, selected and paid for by the applicant, based upon comparable sales of similar property between unrelated parties utilizing accepted land appraisal methodologies. If the appraisal does not conform to the requirements of this section, the appraisal shall be corrected and resubmitted. If the Director disagrees with the appraised value, the City may engage another appraiser and the value of the land donation shall be an amount equal to the average of the two appraisals. If the City's appraisal varies by 25% or more from the applicant's, the City may assess the cost of the City's appraisal against the applicant as provided by law.
 - (2) The cost of anticipated construction of Offsite Improvements to a category of the Capital Improvement System shall be based upon cost estimates certified by a registered professional engineer and approved by the City.
 - (3) The land and construction contributions shall receive credits under this section only for capacity adding Capital Improvements to the category of the Capital Improvement System for which credit is sought, in order to accommodate Impact Generating Projects, consistent with the Impact Fee Study and the City's Five Year Capital Improvement Plan.
- (h) Prior to the issuance of a building permit, the applicant shall submit to the Director a proposed plan of construction of Offsite Improvements for the applicable

category of the Capital Improvement System. The proposed plan of construction shall, in accordance with the requirements of this section, include:

- (1) A list of the contemplated Offsite Improvements;
 - (2) A legal description of any land proposed to be donated and a written appraisal prepared in conformity with subsection (f)(1) of this section;
 - (3) An estimate of proposed construction costs certified by a registered professional engineer as required by subsection (f)(2) of this section;
 - (4) A proposed time schedule for completion of the proposed plan of construction; and
- (i) The Director shall determine:
- (1) If a proposed plan of construction is in conformity with contemplated Offsite Improvements to the applicable category of the Capital Improvement System;
 - (2) If the proposed donation and construction by the applicant is consistent with the public interest;
 - (3) If the proposed construction time schedule is consistent with the City's capital improvements work schedule; and
 - (4) Upon receipt of a proposed plan of construction, the Director shall determine the amount of construction credit based upon the standards of valuation set out in this section, and shall approve a timetable for completion of construction.
- (j) All construction cost estimates shall be based upon, and all construction plans and specifications shall be in conformity with, the construction standards of the City. All plans and specifications shall be approved by the Director prior to commencement of construction.
- (k) Credits approved by the Director under this section shall be subject to a credit agreement approved by the City Commission.
- (l) If the amount of developer contribution credit for a category of Capital Improvement System impact fees, as determined by the Director, exceeds the total amount of impact fees due by the applicant, the City Commission may execute an agreement with the applicant for future reimbursement of the excess of such construction credit from future receipts by the City of impact fees from that category of the Capital Improvement System only. Such agreement for reimbursement shall not

be for a period in excess of ten years from the date of completion of the approved plan of construction, and shall provide for a forfeiture of any remaining reimbursement balance at the end of such 10 year period.

- (m) Nothing contained in this section shall be interpreted or construed to qualify land required as right-of-way under the City's land development regulations, or required by the county or the state, as donated land for credit purposes under this section.

Sec. 13-118.12 - Use of funds; refunds.

- (a) In order to ensure impact fee revenues are spent to the proportional benefit of new development, the City Commission has established and will maintain a separate accounting fund(s) for each of the following categories of the Capital Improvement System, by Impact Fee Benefit District:

- (1) Fire-Rescue Facilities;
- (2) Law Enforcement Facilities;
- (3) Parks and Recreation Facilities;

- (b) The accounting funds shall be maintained separate and apart from each other and from all other accounts of the City. All impact fees shall be deposited into the corresponding fund immediately upon receipt.

- (c) The monies deposited into an impact fee accounting fund shall be used solely for the purpose of funding capital improvement capacity within the Impact Fee Benefit District, including but not limited to:

- (1) design and construction plan preparation;
- (2) building construction;
- (3) permitting;
- (4) right-of-way and land acquisition, including all costs of acquisition or condemnation;
- (5) construction management and inspection;
- (6) surveying and soils and material testing;
- (7) necessary capital equipment;

- (8) repayment of monies transferred or borrowed from any budgetary fund of the City which were used to fund a Capital Improvement; and
- (9) payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the City to provide funds to construct or acquire Capital Improvements to the City's Capital Improvement System, in order to mitigate increased impacts generated by Impact Generating Projects.
- (d) Funds on deposit in an impact fee fund shall not be used, in whole or part, to pay existing debt or for previously approved or constructed Capital Improvements, unless such expenditures are reasonably connected to or have a rational nexus with increased impacts on such facilities by new Impact Generating Projects.
- (e) Funds on deposit in an impact fee fund shall not be used for any expenditure that would be classified as a maintenance, operation, or repair expense or to cure an existing deficiency in the Capital Improvement System.
- (f) Funds on deposit in an impact fee fund shall not be used for any expenditure other than for the same category of Capital Improvement System for which the fee was collected, in accordance with the Impact Fee Study, and only within the same Impact Fee Benefit District from which the fees were collected.
- (g) The monies deposited into an impact fee fund shall be used solely to provide additional capital improvement capacity to the City's Capital Improvement System required to accommodate new Impact Generating Projects, as provided in the City's Five Year Capital Improvement Plan or by agreement with Broward County or other partnering agency providing Capital Improvements in the City Impact Fee Benefit District.
- (h) Any monies on deposit that are not immediately necessary for expenditure shall be invested in interest bearing accounts by the City. All interest income derived from such investments shall remain or be deposited in the impact fee accounting fund on which the interest was earned.
- (i) The impact fees collected pursuant to this subsection shall be returned to the applicant that paid them on the building permit if:
- (1) A building permit issued for an Impact Generating Project is revoked, expires, withdrawn, or is cancelled prior to the completion of the developer's project; or
 - (2) Such fees have not been expended or encumbered prior to the end of the fiscal year immediately following the seventh (7th) anniversary of the date upon which such fees were paid.

(i) Refunds shall be made only in accordance with the following procedure:

- (1) The applicant shall file a refund request with the Director for a revoked, expired, withdrawn, or cancelled building permit within 180 days of such action or, where it is alleged that the City has not complied with (l)(2) above, shall file a petition with the City Commission within one year following the end of the fiscal year in which occurs the date of the seventh (7th) anniversary of the payment of the impact fee by the original Impact Generating Project.
- (2) The petition for refund shall be submitted to the Director and shall contain the following:
 - a. A notarized sworn statement that the petitioner was the applicant and paid the impact fees for which a refund is sought; and
 - b. A copy of the dated receipt issued for payment of the fee, or such other record as would indicate payment of the fee.
- (3) Refund request pursuant to revoked, expired, withdrawn, or cancelled building permit. Within 90 days from the date of receipt of a complete refund request application related to a revoked, withdrawn, cancelled or expired building permit, or otherwise as provided by law, the Director shall either approve or deny the request.
- (4) Refund request for unspent or unencumbered funds. Within 60 days from the date of receipt of a petition for refund under Subsection j) 2) above, or as otherwise provided by law, the Director will advise the petitioner and City Commission of the status of the impact fee refund request, and, whether or not the impact fee paid has been spent or encumbered within the applicable time period. If it was not spent or encumbered, then within 90 days of the petition, or as otherwise provided by law, the City Commission shall authorize the fees to be returned to the petitioner with interest at the average net interest rate earned by the City in the applicable impact fee accounting fund during the time such impact fee was on deposit. For the purposes of this section, fees collected are deemed to be spent or encumbered on the following basis: The first fee in shall be the first fee spent or encumbered.

Sec. 13-118.13 - Updating, indexing, annual reporting, and audits.

- (a) The City shall not update the Impact Fee Study that provides the basis for the impact fees imposed under this subsection for a period of at least five (5) years from the effective date of this ordinance.

- (b) Increases in Impact Fee Rates must comply with the developer credit provisions in Section 13-118.11, "Developer Contribution Credits," and must ensure the holders of any impact fee credits created under this subsection, but in existence before a fee increase, receive the full benefit of the intensity or density prepaid by the credit balance as of the date it was first established, including credits granted under Section 163.3180, or Section 380.06, Florida Statutes, after the original effective date of this subsection.
- (c) On an annual basis, the Director of the City's Finance Department shall report the following to the City Commission:
- (1) the amount of impact fee revenues currently on account for each category of the Capital Improvement System for which impact fees are collected;
 - (2) the amount and nature of any expenditure or encumbrance of impact fees since the prior annual report;
 - (3) the status of outstanding developer credits and credit balances; and
 - (4) the amount and nature of any planned expenditures or encumbrances of impact fees prior to the next annual report.
- (d) The City's Finance Director, or their designee, shall submit an affidavit, meeting the requirements of Section 163.31801, with the City's annual financial report under Section 218.32 Florida Statutes, or financial audit report under Section 218.39, Florida Statutes.

In addition to the items that are reported in the annual financial reports under Section 218.39, Florida Statutes and Section 380.110, Florida Statutes, and (d) above, the City will issue a report on impact fees consistent with the requirements of Section 163.31801(13) as amended.

Sec. 13-118.14 - Vested rights.

Nothing in this subsection shall limit or modify the rights of any person to complete any development for which a lawful building permit was issued prior to the effective date of this subsection and on which there has been a good faith reliance and a substantial change of position.

Sec. 13-118.15 - Penalty.

Violations of this section may be enforced pursuant to Section 1.8, "General penalty for violation of Code; continuing violation and other remedies and administrative fees," of the Code of Ordinances. Additionally, the City may obtain an injunction or other legal or equitable relief in the circuit court against any person violating this subsection.

Sec. 13-118.16 - Appeals.

- (a) Final decisions of the Director, or designee, under this subsection are subject to appeal pursuant to Section 13-34, "Appeals". An appeal must be filed with the City Clerk within 30 days of the date of the final decision to be appealed. Any appeal not timely filed shall be waived.
- (b) Nothing in this section shall affect the remedies the City has available under applicable law.

Sec. 13-119. - Comprehensive impact fee schedule.

(Insert Comprehensive Impact Fee Schedule Here; see separate attachments in agenda backup)