

Chapter 113 IMPACT FEES¹

Sec. 113-1. Short title.

This article shall be known as and referred to as the "City of Fort Pierce Impact Fee Ordinance."
(Code 1983, § 22-401; Ord. No. L-61, § 2, 11-17-2008)

Sec. 113-2. Definitions.

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

Applicant means a person, corporation, organization, or other legal entity undertaking development, or the applicant's authorized agent.

Capital improvements includes, but is not limited to, costs associated with the planning, design, and construction of new or expanded public facilities on the city's capital improvement program, or which the city commission has by resolution committed to adding to the CIP no later than the next regularly scheduled update, which have a life expectancy of one or more years and a value of at least \$1,000.00, and the land acquisition, land improvement, design, and engineering related thereto. Capital improvements do not include site-related improvements; routine and periodic maintenance expenditures; or personnel, training, or other operating costs; but may include the following costs associated with the provision of a capital improvement, except as expressly limited by this article:

- (1) The cost of all labor and materials;
- (2) The cost of all lands, right-of-way, property, rights, and easements, including costs of acquisition;
- (3) The cost of all plans and specifications;
- (4) The cost of new equipment;
- (5) The cost of all public facility construction associated with new buildings and structures, and public facility site improvements;
- (6) The cost of relocating utilities to accommodate new public facilities;
- (7) The cost of planning and engineering new public facilities;
- (8) The cost of all land surveying and soils and materials testing; and
- (9) The cost of mitigating negative impacts of public facility construction, including natural resource impacts, and environmental impacts.

Capital improvement program or *CIP* means a five-year schedule of planned public facility improvements adopted by the city commission, which schedule indicates the funding sources and estimated costs for each planned improvement.

Development means any construction or expansion of a building or structure, or any changes in the use of any building or structure or land use that will generate additional impacts on the public facilities.

¹State law reference(s)—Impact fees, F.S. § 163.31801.

Director means the planning director or the director's designee.

Fair share means that share or portion of the cost of public facility improvements which is reasonably attributable to or needed to serve new development.

Fair share capital capacity means that share or portion of public facility capital improvements that is reasonably attributable to or needed to serve the applicant's development.

Fee payer means a person undertaking development who pays an impact fee in accordance with the terms of this article.

Government building facilities means buildings and land capital improvements necessary to provide governmental services capacity to new residential and nonresidential development, but does not include site-related improvements.

Government buildings impact fee means the impact fee imposed upon new residential and nonresidential development by this article in order to offset a new development's fair share impact on government building facilities.

Impact fee means a fee imposed pursuant to this article, in the amounts set forth in sections 113-15 through 113-19, as applicable.

Impact fee account means an account established by the city for the purpose of segregating impact fee revenues collected for a particular public facility from other impact fee accounts and all other city funds.

Methodology report means the report entitled "City of Fort Pierce Impact Fee Study," prepared by Tindale-Oliver & Associates, and dated June 8, 2007.

New development means development for which a building permit is applied for after the effective date of the ordinance from which this article is derived.

Noncommencement means the cancellation of a development activity.

Offset means a credit, payment, reimbursement, or waiver of impact fees due, given pursuant to the terms of this article, as a result of the dedication, construction, or funding of an offset-eligible improvement.

Offset agreement means an executed, binding agreement between an applicant and the city, and other necessary parties, which provides for offsets against impact fees in exchange for offset-eligible improvements provided by the applicant or the applicant's agent.

Offset-eligible improvement means a capital improvement, constructed, dedicated, or funded by a party other than the city, which is not a site-related improvement and which is on the city's CIP or which the city commission has by resolution committed to adding to the CIP no later than the next regularly scheduled update.

Parks and recreation facilities means capital improvements necessary to provide parks and recreation capacity to residential development, but does not include site-related improvements.

Parks and recreation impact fee means the impact fee imposed upon new development by this article in order to offset residential development's fair share impact on parks and recreation facilities.

Proposed development means the development subject to the imposition of impact fees as provided by this article.

Public facilities means parks and recreation facilities; government building facilities; solid waste facilities; stormwater facilities; and transportation facilities for which impact fees are collected pursuant to this article.

Public facilities capital costs means the costs of providing capital improvements for public facilities.

Site-related improvements means an improvement, whether on- or off-site, that is necessary to offset impacts attributable solely to a particular development, including, but not limited to, direct access improvements, turn lanes, median openings, frontage roads, and on-site water and wastewater facilities.

Solid waste facilities means capital improvements necessary to provide solid waste services capacity to new residential and nonresidential development, but does not include site-related improvements.

Solid waste impact fee means the impact fee imposed upon new residential and nonresidential development by this article in order to offset new development's fair share impact on solid waste facilities.

Stormwater facilities means capital improvements necessary to provide stormwater capacity to new residential and nonresidential development, but does not include site-related improvements.

Stormwater impact fee means the impact fee imposed upon new residential and nonresidential development by this article in order to offset new development's fair share impact on stormwater facilities.

Temporary uses means uses that are required in the construction phase of development or are uniquely seasonal in nature, including, but not limited to, contractor's project offices, project sales offices, seasonal sales of trees or farm produce, carnivals, and tent meetings.

Transportation facilities means capital improvements necessary to provide roadway capacity to new residential and nonresidential development, but does not include site-related improvements.

Transportation impact fee means the impact fee imposed upon new residential and nonresidential development by this article in order to offset new development's fair share impact on transportation facilities.

(Code 1983, § 22-406; Ord. No. L-61, § 2, 11-17-2008)

Sec. 113-3. Policy and purpose.

- (a) *Policy.* It is the policy of the city that new development pay its fair share of public facility costs through impact fees, which will be used to finance, defray, or reimburse all or a portion of the costs incurred by the city for public facility improvements necessitated by and provided to serve such development.
- (b) *Purpose.* The purpose of this article is to implement the city's comprehensive plan by providing for the assessment and payment of impact fees such that all or a portion of new development's proportionate impacts on public facilities are mitigated and adequate public facilities may be provided in a timely manner to new development.

(Code 1983, § 22-402; Ord. No. L-61, § 2, 11-17-2008)

Sec. 113-4. Findings.

- (a) The city commission recognizes that growth and development in the city will require that the capacity of the city's public facilities be expanded in order to maintain adequate levels of service, and that without a funded program for public facility improvements, new growth and development will have to be limited in order to protect the health, safety and welfare of the city's residents.
- (b) The city commission has completed a study establishing the type, amount, and cost of projected public facility improvements needed to serve new growth and development.
- (c) The regulatory scheme set forth in this article, which requires new development to pay reasonable impact fees, requires new development to pay not more than its pro rata share of the reasonably anticipated expansion costs of new public facilities created by new development, which is the responsibility of the city and is in the best interest of the public health, safety, and welfare.

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- (d) The technical data, findings, and conclusions herein are based on the city comprehensive plan, as amended, the methodology report, and other referenced studies and reports.

(Code 1983, § 22-403; Ord. No. L-61, § 2, 11-17-2008)

Sec. 113-5. Interpretations of article.

Interpretation of the provisions of this article shall be made by the director.

(Code 1983, § 22-404; Ord. No. L-61, § 2, 11-17-2008)

Sec. 113-6. Effect on other regulations and requirements.

- (a) This article may not be construed to alter, amend, or modify any provision of this city Code. Other provisions of this Code shall be operative and remain in full force and effect notwithstanding any contrary provisions, definitions, or intentions that are or may be expressed or implied in this article.
- (b) The payment of impact fees shall not entitle the applicant to a building permit unless all other applicable land use, zoning, planning, and other applicable requirements, standards, and conditions have been met. Such other requirements, standards, and conditions are independent of the requirement for payment of impact fees required by this article.
- (c) This article, including sections 113-15 through 113-19, related to particular public facilities, shall not affect, in any manner, the permissible use of property, density, or intensity of development, design and improvement standards, or other applicable standards or requirements of this Code.

(Code 1983, § 22-405; Ord. No. L-61, § 2, 11-17-2008)

Sec. 113-7. Applicability of this article.

- (a) *Affected area.* This article shall apply to all new development within the city.
- (b) *Type of development affected.* Except where specifically exempt by the provisions of this article, this article shall apply to all new development, as further provided in sections 113-15 through 113-19 and other applicable provisions of this article.
- (c) *Type of development not affected.* The following types of development shall be exempt from the payment of impact fees pursuant to this article:
- (1) The replacement of a destroyed or partially destroyed building or structure, with a new building or structure of the same size and use;
 - (2) Alterations or expansions to existing buildings where no additional dwelling units are created and no additional impacts on any public facility are created;
 - (3) Accessory buildings and structures, unless such building or structure accounts for more than 25 percent of the gross floor area of the principal structure or use;
 - (4) No impact fee shall be imposed on developments that are the subject of an executed development agreement, offset agreement, or condition of approval, which contains provisions in conflict with this article, but only to the extent of the conflict.
 - (5) Temporary uses;

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- (6) Any use that does not create an impact on any public facility for which an impact fee is imposed pursuant to sections 113-15 through 113-19, as applicable;
 - (7) All public educational and ancillary plants constructed by a district school board or a community college district board of trustees, pursuant to F.S. § 1013.371(1)(a);
 - (8) Charter school facilities, pursuant to F.S. § 1002.33(18)(d);
 - (9) New development proposed within the city's enterprise zone, the boundaries of which are indicated on a map entitled "City of Ft. Pierce EZ," which is on file at the city's planning department. The city shall use funding sources other than impact fees to replace fees exempt pursuant to this subsection to ensure that level of service standards in the methodology report are maintained.

(Code 1983, § 22-407; Ord. No. L-61, § 2, 11-17-2008)

Sec. 113-8. Collection of impact fees; unlisted uses.

- (a) *Collection.* Impact fees required by this article, as set forth in sections 113-15 through 113-19, as applicable, shall be assessed and collected prior to the issuance of a building permit.
- (b) *Unlisted uses.* In the event that a land use is proposed that is not specifically listed in sections 113-15 through 113-19, as applicable, the director shall determine whether a listed use is reasonably similar in impact to the use proposed, based on an assessment of the likely impact of the proposed use. Such determinations shall be based on documented evidence of impact, including, but not limited to, the latest edition of the Institute of Transportation Engineers' Trip Generation Manual or other generally-accepted measure of development impact. If the director determines that no listed use is reasonably similar in impact to the proposed use, the applicant must prepare an individual assessment as provided in section 113-9.

(Code 1983, § 22-408; Ord. No. L-61, § 2, 11-17-2008; Ord. No. 22-035, § 1, 11-7-2022)

Editor's note(s)—Per Ord. No. 22-035, § 1, adopted November 7, 2022, the collection of the abovementioned impact fees is suspended within the boundaries of the city's designated urban infill and redevelopment area from November 7, 2022 until November 7, 2023, and shall be reinstated thereafter to full force and effect unless or until the moratorium on collection is modified or amended.

Sec. 113-9. Individual assessment of impact fee.

- (a) The individual assessment may be used to determine whether a fair share of the public facilities costs necessitated by the proposed development should be less than the fees set forth in sections 113-15 through 113-19, as applicable, or, if a particular use or combination of uses is not listed therein and is not reasonably similar to a listed use, what fee should be paid in order to mitigate a proposed development's fair share capital capacity. The individual assessment shall be calculated according to the methodology used for the particular public facility in the methodology report.
- (b) Prior to preparing an individual assessment, the applicant must schedule a preapplication meeting with the director in order to establish the appropriate procedures and methodologies to be used pursuant to this article and the city's impact fee administrative manual.
- (c) An application for individual assessments shall include the following information:
 - (1) *For transportation impact fees.*
 - a. Trip generation rates for the proposed development, consistent with the methodology report, based on local empirical surveys for the same or similar land use types;

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- b. Average trip length generated from the proposed development onto the city's road system, based upon local empirical surveys of similar land use types; and
 - c. An assessment of the costs of providing the road improvements needed to serve the proposed development. Such costs shall include all public facilities capital costs and shall be based upon recent empirical information for the cost of a lane mile of new roadway capacity in the city or its vicinity.
- (2) *For other impact fees.*
- a. The demand for public facilities created by the proposed development, based on local empirical surveys for the same or similar land use types;
 - b. Estimated population based upon local empirical surveys of similar land use types; and
 - c. An assessment of the costs of providing the particular public facilities needed to serve the proposed development. The cost figures used shall include all public facilities capital costs and shall be based upon recent empirical information related to the costs in the city for the public facility.
- (d) The individual assessment analysis shall be prepared by qualified professionals in the fields of planning and engineering, impact analysis, and economics, as deemed appropriate to the circumstances of the assessment by the director.
- (e) Within 15 working days of receipt of an individual assessment analysis, the director shall determine if the individual assessment analysis is complete. If the director determines the application is not complete, the director shall send a written statement specifying the deficiencies to the person submitting the application. Until the deficiencies are corrected, the director shall take no further action on the application.
- (f) When the director determines the individual assessment analysis is complete, the director shall review it within 30 working days. The director shall approve the proposed fee if he determines that the data, factors, and methodology used to determine the proposed impact fee are professionally acceptable and fairly assess the costs for capital improvements to the public facilities that are necessitated by the proposed development if the facilities are to be maintained at adopted levels of service. If the director determines that the data, factors, or methodology are unreasonable, the proposed fee shall be denied, and the applicant shall pay the impact fees according to the schedule established in sections 113-15 through 113-19, as applicable, or as set by the director, if the use had not been identified previously in the fee schedule.

(Code 1983, § 22-409; Ord. No. L-61, § 2, 11-17-2008)

Sec. 113-10. Offsets against impact fees due.

- (a) *Applicability; eligibility.*
- (1) *Applicability.* This section shall apply to any request for an offset against impact fees due and payable after the effective date of the ordinance from which this article is derived.
 - (2) *Eligibility.*
 - a. Offsets may be provided by the city commission, pursuant to an offset agreement, for offset-eligible improvements.
 - b. Offsets shall be given only for the same category of public facility as the offset-eligible improvement.

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- (b) *Requirements and procedures for impact fee offsets.* Applications for offsets must be made on a form provided by the director for such purposes. The application must be accompanied by a proposed offset agreement as provided herein.
- (1) *Procedure.*
- a. Upon receipt of a complete application, the director and other appropriate staff must review the application, as well as such other information and evidence as may be deemed relevant, and the director must forward to the city commission a report as to whether an offset is proper, based on the provisions of this article.
 - b. Based on the report of the director, the terms of the proposed offset agreement, the provisions of this article, the CIP, the comprehensive plan, adopted city budget, and the methodology report, the city commission must make a final decision to accept, reject, or accept with conditions the proposed dedication, construction, or funding of an offset-eligible capital improvement in exchange for an offset against impact fees owed.
- (2) *Calculation of the value of offset.*
- a. The amount of any offset shall be calculated as the lower of the following:
 1. The amount of the impact fees due; or
 2. The actual verified costs of dedication or construction.
 - b. Actual verified costs shall be calculated as follows:
 1. *Facilities and equipment associated with the offset-eligible improvement.* Actual cost of construction or equipment as evidenced by receipts and other sufficient documentation provided by the applicant of the offset-eligible improvement and verified by the director.
 2. *Dedication of land associated with the offset-eligible improvement.* The fair market value of the land as determined by a certified property appraiser hired and paid for by the applicant. If the city rejects the applicant's appraisal, the city may hire and pay for a second appraiser to appraise the property. If either party rejects the second appraisal, a third appraisal may be performed by an appraiser chosen by the first and second appraisers, the costs of which are to be shared equally by the city and the applicant. The third appraisal is binding on both parties. All appraisals must be consistent with generally-accepted appraisal techniques.
- (3) *Offset agreement requirements.* No capital improvement may be accepted in exchange for an offset except pursuant to an executed offset agreement between the city and the provider of the offset-eligible improvement, which agreement shall include the following:
- a. A schedule for the initiation and completion of the proposed offset-eligible improvement;
 - b. The agreed to offset mechanism including, but not limited to, credits, waivers, payments, and reimbursements;
 - c. The amount of the impact fees, by type, proposed to be offset by the city;
 - d. The timing of any offset that will be issued by the city, with any necessary conditions or limitations;
 - e. The method of accounting for offsets;
 - f. Terms related to the assignment or transfer of the burdens and benefits conferred under the agreement;

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- g. A provision that all construction will be in accordance with city specifications and all regulations set forth in this Code; and
 - h. Such other terms and conditions as deemed necessary by the city to effectuate the provisions of this article.
- (4) *Assignability*. The burdens and benefits conferred under the offset agreement shall be assigned or transferred to other parties only as provided in the offset agreement.
 - (5) *Transferability*. Offsets granted pursuant to this section, including credits against future impact fee payments, may be transferred from the applicant to property owners within the original proposed development without further approval by the city. No other transfer of offsets shall be allowed.

(Code 1983, § 22-410; Ord. No. L-61, § 2, 11-17-2008)

Sec. 113-11. Use of funds collected; impact fee accounts.

- (a) Impact fees collected pursuant to this article shall be used solely for the purpose of acquisition, expansion, and development of capital improvements to the public facilities for which they were collected, the need for which results from and the provision of which will benefit new development paying the fees, as required by law. Allowable expenditures include, but are not limited to:
 - (1) Public facilities and public facilities capital costs;
 - (2) Repayment of monies transferred or borrowed from any budgetary fund of the city which were used to fund the acquisition, expense, and development of public facilities for new development;
 - (3) Payment of principal and interest, necessary reserves, and costs of issuance under any bonds or other indebtedness issued by the city to provide funds for acquisition, expansion and development of public facilities;
 - (4) Administrative costs of collecting impact fees, not to exceed actual costs;
 - (5) Refunds granted pursuant to section 113-12; and
 - (6) Reimbursements for offset-eligible improvements, pursuant to section 113-10.
- (b) Impact fees collected shall be spent for the construction of public facilities within six years of the date of collection. Impact fees shall be considered spent in the order received by the city on a first-in, first-out basis.
- (c) In order to ensure that impact fee revenues are earmarked and spent solely for the expansion of public facilities necessary to offset the impacts of new development, the following provisions apply:
 - (1) The city shall establish and maintain separate impact fee accounts for each public facility for which an impact fee is collected, in accordance with the provisions of sections 113-15 through 113-19, as applicable.
 - (2) Any amounts in an impact fee account not immediately necessary for expenditure shall be invested in an interest bearing account and all interest income derived from such investments shall be deposited in the impact fee account.
 - (3) Impact fee revenues for each public facility shall remain segregated from impact fee accounts for other public facilities and from other city funds.
 - (4) Amounts withdrawn from an impact fee account must be used solely in accordance with the provisions of this article. Amounts on deposit in an impact fee account shall not be used for any expenditure that would be classified as a maintenance, operations, or repair expense or to address existing deficiencies in public facilities.

(Code 1983, § 22-411; Ord. No. L-61, § 2, 11-17-2008)

Sec. 113-12. Refunds.

- (a) Upon application, impact fees may be returned to the fee payer if the approved development is canceled due to noncommencement of construction or the building permit expires or is revoked before the funds have been spent. Refunds may be made in accordance with this section, provided the fee payer files a petition for a refund within six months from the date of noncommencement, expiration, or revocation.
- (b) Upon application, in the event impact fees are not spent by the city within six years from the date of collection, the city shall refund the amount of the fee, with accrued interest, to the owner of the land for which the fee was collected. For purposes of refunds, the owner of the land on which an impact fee was paid shall be the owner of record at the time that the refund is applied for. Refunds may be made in accordance with this section, provided the landowner files a petition for a refund within one year from the date of expiration of the six-year timeframe.
- (c) A refund application shall include the following information:
 - (1) Evidence that the impact fee was paid for the property, the date of payment, and the amount paid;
 - (2) A certified copy of the latest recorded deed for the property; and
 - (3) Other information deemed by the director to be necessary in order to determine compliance with the provisions of this section, based on the circumstances of the refund request.
- (d) Within 15 working days of receipt of a refund application, the director shall determine if it is complete. If the director determines the refund application is not complete, the director shall send a written statement specifying the deficiencies by mail to the person submitting the refund application. Unless the deficiencies are corrected, the director shall take no further action on the refund application.
- (e) When the director determines the refund application is complete, the director shall review it within 30 working days, and shall approve the proposed refund if he determines that a refund is appropriate pursuant to the requirements of this section.

(Code 1983, § 22-412; Ord. No. L-61, § 2, 11-17-2008)

Sec. 113-13. Updating; inflationary adjustment.

- (a) At least once every three years, the city shall update the methodology report which provides the basis for the impact fees imposed under this article.
- (b) During years when no update occurs, as required above, beginning one year after the effective date of the ordinance from which this article is derived, the impact fee schedules set forth in sections 113-15 through 113-19, as applicable, shall be adjusted annually to account for inflationary increases in the costs to the city of providing public facilities to new development. The inflationary adjustment shall be based on cost data from the engineering-news record, the consumer price index, the county property appraiser, the state department of transportation, or other reliable indicator of cost increases for the city over the relevant period of time.
- (c) The city shall comply with the notice requirements for updates and inflationary adjustments as provided in F.S. § 163.31801.

(Code 1983, § 22-413; Ord. No. L-61, § 2, 11-17-2008)

Sec. 113-14. Appeals.

- (a) *General.* An applicant may appeal any final decision of the director, made pursuant to this article, to the city commission on a form provided by the director. Such appeal must be filed within 60 calendar days of the final decision. The appeal shall state the grounds of the appeal with specificity. The director shall place the appeal on the city commission's agenda for a regularly scheduled meeting or a special meeting called for that purpose, and forward the record of the matter that is on appeal to the city commission.
- (b) *Record.* The record considered by the city commission shall be the record of the application related to the final decision of the director.
- (c) *Notice.* The director shall provide the applicant at least 15 calendar days' notice of the appeal before the hearing by the city commission, by certified mail or hand delivery.
- (d) *Hearing on appeal.* At the hearing on the appeal, the city commission shall provide the appellant an opportunity to identify the grounds for the appeal and the basis for the director's alleged error on the decision, based on the record. To the extent relevant, the director, other city staff involved in the decision, and the appellant shall be allowed to respond, based on the record. After the presentations, the city commission may hear from any other person it deems appropriate, and then based on the testimony heard at the hearing and the record affirm, modify, or reverse the decision of the director based on the standards in subsection (e) of this section.
- (e) *Standards.* To reverse a decision of the director, the city commission shall find that there is a clear and demonstrable error in the application of the facts in the record to the standards for review related to the final decision of the director. If the city commission reverses or modifies the director's decision, it shall provide the director clear direction on the proper decision. The decision of the city commission shall be final.
- (f) *Form of decision.* The city commission's decision on the appeal shall be in writing and include findings of fact and the application of those facts to the relevant standards.

(Code 1983, § 22-414; Ord. No. L-61, § 2, 11-17-2008)

Sec. 113-15. Parks and recreation impact fee.

- (a) *Parks and recreation impact fee schedule.* A parks and recreation impact fee shall be assessed and collected from residential new development, pursuant to all applicable provisions of this article, in accordance with the fee schedule established by resolution.
- (b) *Parks and recreation impact fee account.* There is hereby established a parks and recreation impact fee account into which all parks and recreation impact fees collected shall be deposited. Other than interest that accrues on the account, no other funds shall be maintained in the parks and recreation impact fee account. Parks and recreation impact fee revenues shall be spent only on parks and recreation facilities and parks and recreation capital costs as provided in section 113-11.

(Code 1983, § 22-415; Ord. No. L-61, § 2, 11-17-2008; Ord. No. 22-035, § 1, 11-7-2022)

Editor's note(s)—Per Ord. No. 22-035, § 1, adopted November 7, 2022, the imposition of the impact fee in the above section is suspended within the boundaries of the city's designated urban infill and redevelopment area from November 7, 2022 until November 7, 2023, and shall be reinstated thereafter to full force and effect unless or until the moratorium on imposing them is modified or amended.

Sec. 113-16. Government buildings impact fee.

- (a) *Government buildings impact fee schedule.* A government buildings impact fee shall be assessed and collected from new residential and nonresidential development, pursuant to all applicable provisions of this article, in accordance with the fee schedule established by resolution.
- (b) *Government buildings impact fee account.* There is hereby established a government buildings impact fee account into which all government buildings impact fees collected shall be deposited. Other than interest that accrues on the account, no other funds shall be maintained in the government buildings impact fee account. Government buildings impact fee revenues shall be spent only on government building facilities and government building facilities capital costs as provided in section 113-11.

(Code 1983, § 22-416; Ord. No. L-61, § 2, 11-17-2008; Ord. No. 22-035 , § 1, 11-7-2022)

Editor's note(s)—Per Ord. No. 22-035 , § 1, adopted November 7, 2022, the imposition of the impact fee in the above section is suspended within the boundaries of the city's designated urban infill and redevelopment area from November 7, 2022 until November 7, 2023, and shall be reinstated thereafter to full force and effect unless or until the moratorium on imposing them is modified or amended.

Sec. 113-17. Solid waste impact fee.

- (a) *Solid waste impact fee schedule.* A solid waste impact fee shall be assessed and collected from new residential and nonresidential development, pursuant to all applicable provisions of this article, in accordance with the fee schedule established by resolution.
- (b) *Solid waste impact fee account.* There is hereby established a solid waste impact fee account into which all solid waste impact fees collected shall be deposited. Other than interest that accrues on the account, no other funds shall be maintained in the solid waste impact fee account. Solid waste impact fee revenues shall be spent only on solid waste facilities and solid waste facilities capital costs as provided in section 113-11.

(Code 1983, § 22-417; Ord. No. L-61, § 2, 11-17-2008; Ord. No. 22-035 , § 1, 11-7-2022)

Editor's note(s)—Per Ord. No. 22-035 , § 1, adopted November 7, 2022, the imposition of the impact fee in the above section is suspended within the boundaries of the city's designated urban infill and redevelopment area from November 7, 2022 until November 7, 2023, and shall be reinstated thereafter to full force and effect unless or until the moratorium on imposing them is modified or amended.

Sec. 113-18. Stormwater impact fee.

- (a) *Stormwater impact fee schedule.* A stormwater impact fee shall be assessed and collected from new residential and nonresidential development, pursuant to all applicable provisions of this article, in accordance with the fee schedule established by resolution.
- (b) *Stormwater impact fee account.* There is hereby established a stormwater impact fee account into which all stormwater impact fees collected shall be deposited. Other than interest that accrues on the account, no other funds shall be maintained in the stormwater impact fee account. Stormwater impact fee revenues shall be spent only on stormwater facilities and stormwater facilities capital costs as provided in section 113-11.

(Code 1983, § 22-418; Ord. No. L-61, § 2, 11-17-2008; Ord. No. 22-035 , § 1, 11-7-2022)

Editor's note(s)—Per Ord. No. 22-035 , § 1, adopted November 7, 2022, the imposition of the impact fee in the above section is suspended within the boundaries of the city's designated urban infill and redevelopment

area from November 7, 2022 until November 7, 2023, and shall be reinstated thereafter to full force and effect unless or until the moratorium on imposing them is modified or amended.

Sec. 113-19. Transportation impact fee.

- (a) *Transportation impact fee schedule.* A transportation impact fee shall be assessed and collected from new residential and nonresidential development, pursuant to all applicable provisions of this article, in accordance with the fee schedule established by resolution.
- (b) *Transportation impact fee account.* There is hereby established a transportation impact fee account into which all transportation impact fees collected shall be deposited. Other than interest that accrues on the account, no other funds shall be maintained in the transportation impact fee account. Transportation impact fee revenues shall be spent only on transportation facilities and transportation capital costs as provided in section 113-11.

(Code 1983, § 22-419; Ord. No. L-61, § 2, 11-17-2008; Ord. No. 22-035 , § 1, 11-7-2022)

Editor's note(s)—Per Ord. No. 22-035 , § 1, adopted November 7, 2022, the imposition of the impact fee in the above section is suspended within the boundaries of the city's designated urban infill and redevelopment area from November 7, 2022 until November 7, 2023, and shall be reinstated thereafter to full force and effect unless or until the moratorium on imposing them is modified or amended.

Sec. 113-20. Economic development impact fee mitigation program

- (a) For the purpose of this section, the term "qualified target industry business" shall mean a new or expanding business in the city that has a positive economic and fiscal impact on the city and meets the requirements of F.S. § 288.106, or its statutory successor in function, as a qualified target industry business. For the purpose of this section, the term "applicant" shall include any person, company, research institute or business park developer that will house qualified target industry businesses.
- (b) Because the imposition of the impact fees herein may place the city in a non-competitive position with other local governments that have chosen not to require growth to pay its fair share of needed capital facilities, thus hindering efforts by the city and the community to encourage economic development opportunities within the city and to create permanent employment expansion opportunities for the city's citizens, there is hereby created an economic development impact fee mitigation program for certain qualified target industry businesses to mitigate any real or perceived disadvantage occurring from the imposition of the impact fees.
- (c) This program is not intended as an entitlement program. The program is intended to provide the city commission the opportunity, in its sole discretion, to grant impact fee mitigation to qualified target industry businesses.
- (d) To be eligible for an economic development impact fee waiver, an applicant must meet the following requirements:
 - (1) Qualify as a qualified target industry business and create a minimum of ten new jobs or a ten percent increase in existing employment (whichever is greater) with an average private sector wage (excluding benefits) of 100 percent of the county's average private sector wage (excluding the top two executive salaries) and make a capital investment in the city of \$5,000,000.00 or greater in construction, renovations, equipment purchases, or other major capital investment items and remain in the city for a minimum of ten years; and
 - (2) Enter into an agreement with the city wherein the applicant agrees to locate or expand its business operations to/within the city for a period of at least ten years. The agreement will also require the

applicant to provide the city with the applicant's quarterly report (UCT-6) and all other documentation to demonstrate that the job creation and salary level commitments were achieved.

- (e) Any applicant seeking an economic development impact fee waiver shall file an application for waiver with the city manager prior to the issuance of the building permit for the subject capital facilities impact construction. The application shall contain:
 - (1) A designation of the capital facilities impact construction for which the application is being submitted, including a current and complete legal description of the property upon which the qualified target industry business is proposed to be located;
 - (2) The name and address of the owner of the property upon which the qualified target industry business is proposed to be located;
 - (3) Proof that the capital facilities impact construction will be a qualified target industry business;
 - (4) A notarized affidavit and all necessary supporting evidence affirming that the requirements of subsection (d)(1) or (d)(2) of this section will be met within one year of the date the certificate of occupancy is issued which term may be extended by the city commissioner upon good cause shown; and
 - (5) Other necessary information as determined by the city manager.
- (f) Any applicant who submits an application for economic development impact fee mitigation pursuant to this section and desires the immediate issuance of a building permit prior to approval of the application shall pay the impact fees imposed herein. Should the city commission approve and accept the mitigation application, the mitigation amount shall be refunded to the applicant or owner.
- (g) If the applicant meets the requirements provided above for mitigation, the applicant shall be eligible for the following:
 - (1) If the applicant qualifies under subsection (d)(1) of this section, it shall be eligible to receive an economic development impact fee mitigation in the following amounts; provided, however, that the city commission may increase these mitigation amounts in the event the applicant exceeds these requirements:

<i>Economic Development Impact Fee Mitigation Amount</i>		
Number of Jobs Created	Total Capital Investment	Waiver Amount (percent of total impact fees)
Minimum of ten	\$5,000,000.00 to \$9,999,999.99	40
Minimum of ten	\$10,000,000.00 to \$14,999,999.99	50
Minimum of ten	\$15,000,000.00 or more	60

- (h) If the city manager finds that the applicant meets the requirements provided herein for mitigation, the city manager shall agenda an impact fee mitigation agreement before the city commission, which shall contain, but not be limited to, the city impact fee mitigation application for qualified target industries and any other documents as requested by the city manager. Because this program is not an entitlement program, the city commission may reject the request for mitigation without cause.
- (i) Any incentive approved pursuant to the economic development impact fee mitigation program shall be paid from other legally available funds (other than impact fees).
- (j) Any request for economic development impact fee mitigation must be submitted to the city by the applicant prior to the applicant deciding whether or not they will expand or locate in the city.

(Code 1983, § 22-420; Ord. No. 15-002, § 1, 2-17-2015)
