

EXHIBIT 1
ORDINANCE NO. 2022-

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF HALLANDALE BEACH, FLORIDA, AMENDING CHAPTER 30, "UTILITIES", ARTICLE VI, "WATER AND WASTEWATER IMPACT FEES"; CREATING CHAPTER 31, DEVELOPMENT IMPACT FEES; PROVIDING FOR THE ADOPTION OF IMPACT FEES FOR FIRE & RESCUE, LAW ENFORCEMENT, PARKS & RECREATION, AND MULTI-MODAL TRANSPORTATION CAPITAL IMPROVEMENTS; PROVIDING FOR APPLICABILITY, FINDINGS OF FACT, INTENT AND PURPOSE; DEFINITIONS; ADOPTING AN IMPACT FEE STUDY; PROVIDING FOR THE CALCULATION, IMPOSITION AND PAYMENT OF IMPACT FEES AND FEE SCHEDULES; EXEMPTIONS; CHANGES IN USE; ALTERNATIVE IMPACT FEE CALCULATIONS; DEVELOPER CONTRIBUTION CREDITS; USE OF FUNDS AND REFUNDS; UPDATING, ANNUAL INDEXING, REPORTING, AND AUDITS; VESTED RIGHTS; PENALTY; APPEALS; PROVIDING CODIFICATION, IMPLEMENTING ADMINISTRATIVE ACTIONS, CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2(b), Florida Constitution and Section 166.021, Florida Statutes, grant the City broad home rule powers necessary to carry on municipal government; and

WHEREAS, Section 163.3202(3), Florida Statutes, encourages the use of innovative land development regulations, which includes the use of impact fees to implement the goals, objectives, and policies of the City's Comprehensive Plan; and

WHEREAS, Section 163.31801, Florida Statutes, specifies certain requirements for impact fee ordinances; and

WHEREAS, growth in residential and nonresidential properties has occurred and the population of the City is projected to increase by fifteen percent (15%) by 2045; and

WHEREAS, the City has historically provided fire and rescue, law enforcement, parks and recreation, and transportation capacity-adding capital improvement facilities to the community and wishes to continue to do so and to maintain current levels of service for these facilities; and

WHEREAS, growth within the City has resulted in the need to expand and fund fire and rescue, law enforcement, parks and recreation, and multi-modal transportation

facilities to accommodate the demands imposed by such growth without decreasing the level of service currently provided to existing users; and

WHEREAS, expansion of capital improvement systems to accommodate new growth will promote and protect the public health, safety, and general welfare of the residents of Hallandale Beach; and

WHEREAS, in order for future growth to pay more equitably for the cost of expanding necessary capital improvement systems to meet the demands imposed by such growth, the City Commission finds that it is necessary to adopt impact fees for the fire and rescue, law enforcement, parks & recreation, and multi-modal transportation system facilities; and

WHEREAS, the City has included on its Five-Year Capital Improvement Plan, fire and rescue, law enforcement, parks and recreation, and multi-modal transportation capacity-adding improvements to serve new development and to be funded, in part, by impact fees paid by new capital improvement impact projects; and

WHEREAS, the City wishes to adopt a multi-modal impact fee to promote a mix of transportation alternatives, in accordance with the City's Comprehensive Plan goals, objectives, and policies, including section 3.4 of the Transportation Element of the City's Comprehensive Plan; and

WHEREAS, the City has and will continue to coordinate with Broward County in the provision of certain multi-modal transportation capital improvements; and

WHEREAS, the intent of the City in imposing impact fees is to recover only the proportionate share of the costs reasonably connected to meeting the demands of new growth; and

WHEREAS, the report entitled "City of Hallandale Beach Impact Fee Study," dated November 30, 2020, and subsequently updated on December 2, 2021, prepared by Tindale-Oliver & Associates, Inc. (the "Impact Fee Study") sets forth a methodology and analysis for establishing the impact of new development on the need for and costs of additional capital improvements related to fire and rescue, law enforcement, parks and recreation, and multi-modal transportation services in the City; and

WHEREAS, the Impact Fee Study is based on the most recent and localized

68 data; and

69 **WHEREAS**, based on the Impact Fee Study, the City Commission finds that the
70 capital improvement system to be funded with impact fee revenues serves the entire
71 geographic area of the City and therefore will have a benefit that is Citywide to those
72 paying the fees; and

73 **WHEREAS**, the City Commission has evaluated its existing debt and previously
74 approved capital improvement projects and has determined that expenditures of impact
75 fee revenues resulting from this Ordinance, based on the Five-Year Capital
76 Improvement Plan, are reasonably connected and have a rational nexus to capacity
77 facility impacts created by new construction, not existing development; and

78 **WHEREAS**, the City Commission finds that the Impact Fee Study has provided
79 revenue credits for sources of revenue other than impact fees, which also contribute to
80 the provision of capital improvement facilities, to ensure fee payors do not pay twice for
81 their contributions to new capital improvement capacity; and

82 **WHEREAS**, the City Commission therefore finds that the impact fees calculated
83 in the Impact Fee Study are proportional, reasonably connected to, and have rational
84 nexus with the need for additional capital facilities and the increased impact generated
85 by new residential and, as applicable, new commercial construction; and

86 **WHEREAS**, the City Commission further finds that the impact fees calculated in
87 the Impact Fee Study are proportional, reasonably connected to, and have rational
88 nexus with the expenditures of the funds collected and the benefits accruing to the new
89 residential and, as applicable, new commercial construction assessed impact fees by
90 this Ordinance; and

91 **WHEREAS**, the City Commission has received and accepted the Impact Fee
92 Study and all associated schedules and analyses prepared by Tindale-Oliver &
93 Associates, Inc.; and

94 **WHEREAS**, the Impact Fee Study sets forth the calculations and basis for the
95 impact fees utilized and associated with the provision of City capital improvements
96 needed to serve new development; and

97 **WHEREAS**, the City Commission's intent is to expend the impact fee revenues

collected pursuant to this Ordinance only for the purposes for which they were collected,
specifically, to defray the capital cost incurred to meet the demands imposed by growth;
and

WHEREAS, the Florida legislature passed House Bill 337 during the 2021
legislative session amending Section 163.31801, Florida Statutes, which amendments
have been incorporated below; and

WHEREAS, the City provided notice of the proposed impact fees prior to second
reading of the Ordinance, at least ninety (90) days prior to the effective date of this
Ordinance.

NOW THEREFORE, BE IT ORDAINED by the City Commission of the City of
Hallandale Beach, Florida, as follows:

SECTION I. That Section 30, Utilities, Article VI, Water and Wastewater Impact
Fees, of the Code of Ordinances of the City of Hallandale Beach, Florida is hereby
amended as follows:

Article VI. Water and Wastewater Impact Fees

Sec. 30-245. - Short title.

This Chapter shall be known and may be cited as the "City of Hallandale Beach
Water and Wastewater Impact Fee Ordinance".

Sec. 30-253. - Required time of payment.

~~Impact fees and AGRCs must be paid prior to the issuance of a building permit. A
building permit will not be issued until these fees have been paid. Payment of Impact
fees and AGRCs is required at the issuance of a building permit.~~

SECTION II. That Chapter 31, Article I of the Code of Ordinances of the City of
Hallandale Beach, Florida is hereby created and shall be adopted as
follows:

Chapter 31. Development Impact Fees

Article I. General Provisions

Sec. 31-1.- Short Title.

This Chapter shall be known and may be cited as "the City of Hallandale Beach Development Impact Fees Ordinance."

Sec. 31-2.- Applicability.

This Chapter applies to new capital improvement impact projects for which a building permit is applied for after the effective date of this chapter. This Chapter adopts impact fees to offset the City's costs to maintain its capital improvement system, as the term is defined in Section 32-1013. This Chapter does not exempt or affect the requirements for the payment of utility and other service fees, including water and wastewater fees, under Chapter 30 of the City Code of Ordinances, Utilities.

Sec. 31-3. - Findings of Fact, Purpose, and Intent of Ordinance.

It is hereby ascertained, determined, and declared that:

A. Both existing development and development necessitated by the growth contemplated in the comprehensive plan will require improvements and additions to fire and rescue facilities, law enforcement facilities, parks and recreation facilities, and the multi-modal transportation system of the City to accommodate and maintain existing level of service standards.

B. Future growth necessitating capital improvement impact projects should contribute its proportional and reasonable share of the cost of capacity-adding improvements and additions to fire and rescue facilities, law enforcement facilities, parks and recreation facilities, and the multi-modal transportation system required to accommodate capital improvement demands generated by such growth as adopted in the comprehensive plan.

C. Implementation of a reasonable impact fee structure to require future capital improvement impact projects to contribute their proportional and reasonable

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 comprehensive plan.

D. The projected capital improvements and additions to the capital improvement system of the City and the allocation of projected costs between those necessary to serve existing development and those required to accommodate new capital improvement impact projects, as presented in the study entitled "Impact Fee Study," approved and adopted by the City Commission on February 2, 2022, and such projections are found to be in conformity with the comprehensive plan.

E. Capital improvement planning is an evolving process, and the capital improvements and additions to the fire and rescue facilities, law enforcement facilities, parks and recreation facilities, and the multi-modal transportation system facilities identified upon the date of adoption of the ordinance from which this Article is derived constitute projections of growth patterns and improvements and additions based upon present knowledge and judgment. Therefore, in recognition of changing growth patterns and the dynamic nature of population growth, it is the intent of the City Commission that the identified improvements and additions to the capital improvement system be reviewed and adjusted periodically to ensure that 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 chapter is to require payment of Citywide impact fees by new capital improvement impact 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 capital improvement impact projects.

G. The City Manager hereby designates the Director of the Community Enhancement and Sustainable Development Department as the administrator of this Chapter.

H. This Chapter shall not be construed to permit the collection of impact fees from capital improvement impact 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. 31-4. - Definitions.

When used in this chapter, the following words, terms, and phrases, whether capitalized or not, shall have the meanings set forth in this section. Terms used in this article but which are not defined here, shall have the meaning set forth in Section 32-8 of the Zoning and Land Development Code.

- (1) Access Improvements: Improvements not included in the multi-modal transportation system, which are designed to provide safe and adequate ingress and egress from a capital improvement impact 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, and drainage and utilities.
- (2) Alternative Impact Fee: An alternative fee calculated by an applicant and approved by the Director pursuant to Section 31.11.
- (3) Applicant: The person who applies for a building permit for a capital improvement impact project.
- (4) Capital Improvements: Facilities in the City's capital improvement system that include or add capacity to accommodate new capital improvement impact projects, consistent with the impact fee study assumptions and methodology and this article.
- (5) Capital Improvement Impact Project: Land development designed or intended to permit a use of the land which will contain more impact units than the existing use of land, or which will otherwise change the use of land in a manner that increases the demands upon the City's capital improvement system.
- (6) Capital Improvement System: The Citywide fire and rescue facilities, law enforcement facilities, parks and recreation facilities, and the multi-modal transportation system provided by the City to accommodate additional

capital improvement demands generated by new capital improvement construction.

(7) Director: The Director of the City's Community Enhancement and Sustainable Development Department , or the Director's designee.

(8) Encumbered: Monies committed by contract or purchase order in a manner that obligates the City to expend the encumbered amount upon delivery of goods or completion of services or, if applicable, conveyance of right-of-way by a vendor, supplier, contractor or owner.

(9) Fire and Rescue Facilities: Capital improvements provided by the City to accommodate capital improvement impact project for the purpose of acquiring or expanding fire rescue services capital equipment and/or facilities under the jurisdiction of the City.

(10) Impact Fee Benefit District: The geographic area encompassed by the City of Hallandale Beach at the time of the Impact Fee Study.

(11) Impact Fee Rate: An impact fee imposed for a particular capital improvement impact project under the applicable impact fee land use category established in the schedule incorporated in Section 31.6.

(12) Impact Fee Study: The studies adopted pursuant to Section 31.5.

(13) Impact unit: An increment of development measured in dwelling units, building area, floor area, retail area, beds, boat berths, or other similar measure identified in the impact fee study.

(14) Infrastructure: a fixed capital expenditure or fixed capital outlay, excluding the cost of repairs or maintenance, associated with the construction, reconstruction, or improvement of public facilities that have a life expectancy of at least 5 years; related land acquisition, land improvement, design, engineering, and permitting costs; and other related construction costs required to bring the public facility into service. The term also includes a fire department vehicle, an emergency medical service vehicle, a police department vehicle, a school bus as defined in s. 1006.25, and the equipment necessary to outfit the vehicle or bus for its official use.

- (15) Law Enforcement Facilities: Capital improvements provided by the City to accommodate capital improvement impact projects for the purpose of acquiring or expanding police services capital equipment and/or facilities under the jurisdiction of the City.
- (16) Level of Service Standard: The minimum acceptable conditions of fire and rescue facilities, law enforcement facilities, parks and recreation facilities, and multi-modal transportation system facilities.
- (17) Mixed-Use Capital Improvement Impact Projects: In which more than one impact fee land use category is contemplated, with each category constituting a separate and identifiable enterprise not subordinate to or dependent on other enterprises within the capital improvement impact project.
- (18) Multi-Modal Transportation System: The system of transportation, bike, pedestrian, mobility, or transit improvements, provided by the City or by agreement with Broward County, which mitigate capital improvement impact projects' demand for road and multi-modal capital improvements, as calculated in the impact fee study. The multi-modal transportation system includes capacity-adding construction of through lanes; turn lanes; bridges; drainage facilities in conjunction with new multi-modal capital improvements; traffic control devices; relocating utilities to accommodate new multi-modal construction; right of way or easement acquisition; conservation area mitigation; compensating storage; transit amenities, including bus stations and necessary reconfigurations; corridor studies; environmental assessments; ; and /or bicycle and pedestrian facilities, which mitigate the impact of new development as calculated in the impact fee study.
- (19) Offsite Improvements: Capital improvements located outside of the boundaries of a capital improvement impact project, which are required by the City in order to mitigate the demands of developments other than those of a proposed capital improvement impact project paying impact fees or requesting developer contribution credits. Offsite improvements do not

include access improvements.

(20) Owner: The person holding legal title to the real property upon which the capital improvement impact project is to occur.

(21) Parks and recreation facilities: The community, neighborhood, and special facility park and recreation facilities provided by the City in order to accommodate capital improvement impact projects.

(22) Public facilities: The same meaning as defined in §163.3164, Fla. Stat., and include emergency medical, fire, and law enforcement facilities.

(23) Square Footage or "sf": The gross area measured in feet from the exterior faces of exterior walls or other exterior boundaries of the building.

Sec. 31-5. - Adoption of Impact Fee Study.

The City Commission hereby adopts and incorporates by reference the study entitled "City of Hallandale Beach Impact Fee Study," dated November 30, 2020 and subsequently updated on December 2, 2021, 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 improvements system, between those costs required to accommodate existing development and those costs required to accommodate the demands of new capital improvement impact projects generated by new growth contemplated in the comprehensive plan.

Sec. 31-6. - Fees Imposed.

A. All capital improvement impact 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 capital improvement impact projects located in the City, at the rates established under the applicable impact fee land use category in subparagraph C, Table 1.

C. The impact fees authorized by this article shall be as stated in Table 1. A proposed capital improvement impact project shall pay the stated

amount for each category of the capital improvement system at the time of building permit issuance. Impact fee rates for multifamily uses (ITE Land Use Codes 220, 221, 222, 240) are categorized differently for multi-modal transportation than for the other categories of the capital improvement system.

Table 1

**City of Hallandale Beach
Impact Fee Schedule**

ITE LUC	Land Use	Unit	Fire Rescue	Law Enforcement	Parks & Recreation	Multi-Modal
RESIDENTIAL:						
210	Single Family (Detached) - Less than 1,500 sf	du	\$491	\$345	\$2,429	\$2,441
	Single Family (Detached) - 1,500 to 2,499 sf	du	\$552	\$387	\$2,727	\$3,068
	Single Family (Detached) - 2,500 sf and greater	du	\$618	\$434	\$3,052	\$3,451
220/221 222/240	Duplex	du	\$407	\$285	\$2,013	-
	Multi-Family (3 to 9 units)/Townhouse/Mobile Home	du	\$317	\$222	\$1,562	-
	Multi-Family (10 or more units)	du	\$198	\$139	\$975	-
220	Multi-Family, Low-Rise (1-3 levels)	du	-	-	-	\$2,070
221	Multi-Family, Mid-Rise (4+ levels)	du	-	-	-	\$1,394
240	Mobile Home Park	du	-	-	-	\$1,127
253	Congregate Care Facility	du	\$275	\$169	-	\$291
254	Assisted Living	bed	\$297	\$182	-	\$323
LODGING:						
320	Hotel/Motel	room	\$249	\$153	-	\$653
RECREATION:						
416	Campground/RV Park	site	\$157	\$96	-	\$428
420	Marina	boat berth	\$51	\$31	-	\$847
430	Golf Course	hole	\$288	\$176	-	\$10,716
445	Movie Theater	screen	\$1,989	\$1,219	-	\$12,529
492	Health/Fitness Club	1,000 sf	\$921	\$564	-	\$9,794
INSTITUTIONS:						
520	Elementary School (Private)	student	\$32	\$20	-	\$343
522	Middle/Junior High School (Private)	student	\$29	\$18	-	\$324
525	High School (Private)	student	\$26	\$16	-	\$324
540	University/Junior College (7,500 or fewer students) (Private)	student	\$32	\$20	-	\$713
550	University/Junior College (more than 7,500 students) (Private)	student	\$26	\$16	-	\$535

560	Church	1,000 sf	\$131	\$80	-	\$1,548
565	Day Care Center	1,000 sf	\$259	\$159	-	\$4,068
610	Hospital	1,000 sf	\$416	\$255	-	\$3,289
620	Nursing Home	bed	\$336	\$206	-	\$388
630	Clinic	1,000 sf	\$480	\$294	-	\$10,411
OFFICE:						
710	Office Building	1,000 sf	\$307	\$188	-	\$3,022
RETAIL:						
822	Retail/Shopping Center 40,000 sq ft or less	1,000 sfgla	\$672	\$411	-	\$2,053
821	Retail/Shopping Center 40,001 to 150,000 sq ft	1,000 sfgla	\$832	\$509	-	\$4,109
820	Retail/Shopping Center greater than 150,000 sq ft	1,000 sfgla	\$454	\$278	-	\$4,415
840/841	New/Used Auto Sales	1,000 sf	\$505	\$310	-	\$5,225
862	Home Improvement Superstore	1,000 sf	\$624	\$382	-	\$2,562
880/881	Pharmacy with & without Drive-Through Window	1,000 sf	\$595	\$364	-	\$3,840
890	Furniture Store	1,000 sf	\$102	\$63	-	\$1,220
912	Drive-In Bank	1,000 sf	\$477	\$292	-	\$6,603
931	Restaurant, non-Fast Food	1,000 sf	\$1,705	\$1,044	-	\$11,919
934	Fast Food Restaurant w/Drive-Thru	1,000 sf	\$2,914	\$1,785	-	\$31,568
942	Automobile Care Center	1,000 sf	\$537	\$329	-	\$4,254
944	Gas Station w/Convenience Market <2,000 sq ft	fuel pos.	\$470	\$288	-	\$4,134
945	Gas Station w/Convenience Market 2,000-5,499 sq ft	fuel pos.	\$742	\$455	-	\$6,344
945	Gas Station w/Convenience Market 5,500+ sq ft	fuel pos.	\$969	\$594	-	\$8,313
947	Self-Service Car Wash	service bay	\$310	\$190	-	\$3,629
INDUSTRIAL:						
110	Light Industrial	1,000 sf	\$150	\$92	-	\$1,346
140	Manufacturing	1,000 sf	\$173	\$106	-	\$1,317
151	Mini-Warehouse/Warehouse	1,000 sf	\$13	\$8	-	\$271

- D. Pursuant to Section 31.12, the payment of multi-modal transportation impact fees, as provided above, may be eligible for developer credits where Broward County concurrency fees have been assessed against the same applicant for certain multi-modal transportation capital improvements to be provided by the County.
- E. Payment of impact fees under this section does not exempt an applicant from the requirement to provide access improvements,

including required right-of-way dedications or easement deeds, in accordance with the City code requirements, and/or any valid ordinance or regulation applicable to the proposed capital improvement impact project.

Sec. 31-7. - Exemptions.

A. The following shall be exempted from payment of impact fees:

- (1) Alteration, expansion, or replacement of an existing dwelling unit which does not increase the number of families which that dwelling unit is arranged, designed, or intended to accommodate for the purpose of providing living quarters, except in the case of single-family homes when the expansion results in the dwelling unit to move into a different tier.
- (2) Alteration or expansion of a building if the building use upon completion does not generate greater demand for the applicable category of the capital improvement system than was assumed in the impact fee study and reflected under the applicable impact fee rate.
- (3) Replacement of a building or the construction of an accessory building if the replacement building or accessory building does not result in a land use generating greater demand for the applicable category of the capital improvement system than was assumed in the impact fee study and reflected under the applicable impact fee rate.
- (4) Temporary construction sheds or trailers erected to assist in construction and maintained during the term of a building permit.
- (5) Public schools and charter schools, pursuant to Florida Statutes § 1002.33(18)(d).
- (6) Any other use exempt under Florida Statutes.

B. The City shall not increase impact fee rates to offset reduced revenue

350 resulting from exemptions granted under this section, if any. In addition, to
351 the extent an impact-generating use is exempt, the City will further ensure
352 sufficient funding availability to maintain levels of service.

353 **Sec. 31-8. - Payment.**

354 A. Except as otherwise provided in this article, no person shall
355 carry out any capital improvement impact project unless the appropriate
356 impact fee as set forth in Section 31.6, 31.8, 3.10, or 31.11 is paid at
357 the time of issuance of the building permit for the capital improvement
358 impact project.

359 B. Except as provided in C. below, each proposed capital
360 improvement impact project shall be categorized by the Director according to
361 the land use categories set forth in Section 31.6. The Director will categorize
362 a proposed capital improvement impact project based on the meanings
363 assumed in the impact fee study, the definitions in Section 32-8 of the
364 Zoning and Land Development Code, the Land-Based Classification
365 Standards, (APA) (<https://www.planning.org/lbcs/>), or other generally
366 accepted source.

367 C. If a proposed use is not specifically listed and is determined
368 by the Director not to apply to any listed land use category in Section 31.6,
369 the provisions of Section 31.10 of this article apply.

370 D. All impact fees required by this article shall be paid directly
371 to the City of Hallandale Beach.

372 E. The payment of impact fees shall be in addition to any other
373 fees, charges, or assessments due for the issuance of a building permit,
374 except as expressly provided otherwise by the City Code of Ordinances.

375 F. The obligation for payment of impact fee shall run with the
376 land.

377 G. The City Commission may impose a reasonable
378 administrative charge for the collection of impact fees, not in excess of
379 actual costs.

Sec. 31-9. - Changes in use.

Impact fees shall be imposed and calculated on any or all of the applicable below listed conditions for the alteration, expansion or replacement of a building or dwelling unit or the construction of an accessory building if the alteration, expansion, or replacement of the 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 systems than the present use under the applicable impact fee rate. The impact fee imposed under the applicable impact fee rate shall be calculated as follows:

A. When there is a change in land use, the impact fees imposed shall be the impact fees due 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.

B. Unless exempt by Section 31.7, when the square footage of a building is increased, the impact fee rate shall be calculated based only on the increased square footage.

C. Unless exempt by Section 31.7, 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. 31-10. - Calculation of Fees for Non-Listed Uses and Mixed-Uses.

A. If a capital improvement impact project involves a land use not listed under the impact fee land use categories set forth in Section 31.6, the Director shall determine the impact on the applicable category of capital improvement systems to be generated by the proposed capital improvement impact project and shall calculate appropriate impact fees utilizing a methodology generally consistent with Section 31.11.

B. If a capital improvement impact project involves a mixed-use capital improvement impact project, the Director shall calculate the impact fees based upon the demand, by category of capital improvement system, to be generated by each separate land use category included in the proposed mixed-use capital improvement impact project. Outparcels within larger developments shall be calculated individually and not included in the overall square footage of the development.

Sec. 31-11. - Alternative Fee; Calculation.

A. If an applicant believes that the impact to the fire and rescue facilities, law enforcement facilities, parks and recreation facilities, or the multi-modal transportation system facilities caused by the applicant's proposed capital improvement impact project is less than the fee established in Section 31.6 or Section 31.10, the applicant may, at his or her own expense, prior to issuance of a building permit for such capital improvement impact project, submit a calculation of an alternative impact fee to the Director pursuant to the provisions of this section. The Director shall make a determination within ten (10) 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 capital improvement impact 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 study, the methodology for said study 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 study. Through an alternative impact fee study, an applicant may calculate the demand component for a proposed development that is different than that described in the impact fee study. However, the cost and credit components for the alternative impact fee shall be those included in the impact fee study, adjusting for any indexing applied under Section 31.14 or adjustments made by the City Commission to the fees calculated in the impact fee study.

D. An application for an alternative impact fee shall include the following

information:

(1) For multimodal transportation fees:

- a. Trip generation rates for the proposed development, consistent with the impact fee study, based on local empirical surveys for the same or similar land use types; and
- b. Percent new trips and total trip length, consistent with the impact fee study, generated from the proposed development onto the City's multimodal transportation system, based upon local empirical surveys of similar land use types.

(2) For fire and rescue, law enforcement, and parks and recreation impact fees:

- a. Public facility demand for the proposed development, based on local empirical surveys for the same or similar land use types; and
- b. 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 article 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; or
- (3) If an applicant for a previously approved capital improvement impact project, submitted a traffic impact study during a City approval

process, which is substantially consistent with the criteria required by this Section, and if that study is determined by the Director to be current, the impact of that previously approved project shall be presumed for the proposed project to be as described in the prior study. In such circumstances, an alternative impact fee shall be established reflecting the capital improvement impacts described in the prior study.

- (4) It is acknowledged that the multi-modal transportation impact fee rates are based upon the applicable trip generation rates for the land use set forth in the multi-modal transportation impact fee rate schedule. In recognition of such acknowledgment, the trip generation rate for the land use categories shall be considered an independent source for the purposes of the calculation of an alternative impact fee calculation without the necessity of a study as required by Subsection (E)(2) of this section.

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 31.6 or Section 31.10.

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 certified mail, return receipt requested, written notification of the rejection of the alternative Citywide impact fee, and the reason therefor.

Sec. 31-12. - Developer Contribution Credits.

A. The City shall grant a credit against the impact fee imposed pursuant to this chapter for the donation of land or for the construction of offsite improvements, other than access improvements, to a category of the capital improvement system that the City requires or has required pursuant to a development order, as mitigation under article VI of chapter 30, or Section 32-788, or for which Broward County has required a contribution or fee, including capital improvement obligations made prior

to or after the effective date of this article. Such prior obligations may include development agreements, administrative or discretionary approvals, or mitigation fees and contributions.

B. The City shall credit developers or builders on a dollar-for-dollar basis at fair market value to reduce any impact fee collected for the general category or class of public facilities or infrastructure for which the contribution was made. If the City does not charge and collect an impact fee for the general category or class of public facilities or infrastructure contributed, a credit may not be applied.

C. All impact fee credits associated with projects subject to a development of regional impact development order shall be consistent with the provisions of Florida Statutes § 380.06, 163.31801(5), 163.31 and other applicable laws.

D. Impact fee credits are assignable and transferable from one property to another in the same impact fee zone or an adjacent zone and receives benefits from the improvement or contribution that generated credits.

E. Impact fee credits for multimodal transportation impact fees may be required as a result of an applicant's payment of Broward County's concurrency fees for capital improvements for which a City impact fee, or portion thereof, is assessed under this article.

F. In order to receive a credit, the Director must determine that:

1. Previously obligated capital improvements either:

a. Are included in the City's Five-Year Capital Improvement Plan or were at the time the obligation arose; or

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

2. Proposed capital improvements are an integral part of and a necessary accommodation of the contemplated offsite improvements to the category of capital improvement system included in the City's Five-Year Capital Improvement Plan.

G. 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 article shall be the present value of the obligated improvements minus the maximum impact fee recommended in the impact fee study or as determined under section 31.11.

H. The amount of a developer contribution credit proposed after the effective date of this article 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 M.A.I. 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 improvements system, in order to accommodate capital improvement impact projects, consistent with the impact fee study and the City's Five-Year Capital Improvement Plan.

I. Prior to 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 improvements 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.
4. A proposed time schedule for completion of the proposed plan of construction.
5. A proposed methodology for the valuation of the requested credits in the event of subsequent increases in impact fee rates.

J. 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 improvements 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 capital improvements work schedule; and
4. In the event of a future impact fee rate increase, how holders of credits approved since the original effective date of this article, will receive the full benefit of the intensity or density prepaid by the credit balance as of the date it was first established.
5. 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.

K. 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.

L. Credits approved by the Director under this section shall be subject to a credit agreement with the City Commission.

M. The credit agreement shall establish, among other things, the duration for which the credits remain eligible for redemption by the City, not to exceed twenty (20) years, as well as the impact on the value of the credits of any subsequent increases in applicable City impact fees, as required by Florida Statutes § 163.31801(5).

N. Any applicant shall have a right of review, pursuant to Section 31.17, of the determinations and certifications of a proposed plan of construction and the determination and valuation of the developer contribution credit by the Director.

O. 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 with the applicant an agreement 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 (10) 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 ten-year period.

P. A credit shall not be awarded for any contribution of land, money, or services not made directly by the applicant, including a contribution or grant made by another entity.

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

Sec. 31- 13. - Use of Funds; Refunds.

621 A. In order to ensure impact fee revenues are spent to the proportional
622 benefit of new development, the City Commission has established and
623 will maintain separate accounting funds for each of the following
624 categories of the capital improvement system, by benefit district:

- 625 (1) fire and rescue facilities;
- 626 (2) law enforcement facilities;
- 627 (3) parks and recreation facilities; and
- 628 (4) multi-modal transportation system.

629 B. The accounting funds shall be maintained separate and apart from each
630 other and from all other accounts of the City. All impact fees shall be
631 deposited into the corresponding fund immediately upon receipt.

632 C. The monies deposited into an impact fee accounting fund shall be used
633 solely for the purpose of funding capital improvement capacity within the
634 City, including but not limited to:

- 635 (1) design and construction plan preparation;
- 636 (2) building construction;
- 637 (3) permitting;
- 638 (4) right-of-way and land acquisition, including all costs of acquisition or
639 condemnation;
- 640 (5) construction management and inspection;
- 641 (6) surveying and soils and material testing;
- 642 (7) necessary capital equipment;
- 643 (8) repayment of monies transferred or borrowed from any
644 budgetary fund of the City which were used to fund a capital improvement;
645 and
- 646 (9) payment of principal and interest, necessary reserves, and costs
647 of issuance under any bonds or other indebtedness issued by the City to
648 provide funds to construct or acquire capital improvements to the City's

capital improvement system, in order to mitigate increased impacts generated by new residential and, as applicable, nonresidential construction.

D. Funds on deposit in an impact fee fund shall not be used, in whole or in part, to pay existing debt or for previously approved capital facilities, unless such expenditures are reasonably connected to and have a rational nexus with increased impacts on such facilities by new construction.

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 fee for which the fee was collected, in accordance with the impact fee study, and only within the same 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 capital improvement impact 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 which 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 income was earned.

I. The impact fees collected pursuant to this article shall be returned to the

applicant that paid them on the building permit if:

- (1) A building permit issued for a capital improvement impact project is revoked, expires, withdrawn, or is cancelled prior to 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 anniversary of the date upon which such fees were paid.

J. 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 I.(2) above, shall file a petition with the City Commission within one (1) year following the end of the fiscal year in which occurs the date of the seventh anniversary of the payment of the impact fee by the original capital improvement impact project.
- (2) The petition for refund shall be submitted to the Director and shall contain:
 - 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) Within ninety (90) days from the date of receipt of a complete refund request application, related to a revoked, withdrawn, cancelled, or expired building permit, or as otherwise provided by law, the Director shall either approve or deny the request.
- (4) Within sixty (60) days from the date of receipt of a petition for refund under H.(2) above, or as otherwise provided by law, the Director will

advise the petitioner and the City Commission of the status of the impact fee refund request, and, whether the impact fee paid has not been spent or encumbered within the applicable time period. If it was not, within ninety (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 out.

Sec. 31- 14. - Updating, Indexing, Annual Reporting, and Audits

- A. At least once every five (5) years, the City shall update the impact fee study that provides the basis for the impact fees imposed under this article.
- B. Impact fees must be placed into their own accounting fund, and the City shall limit administrative charges for the collection of impact fees to actual costs.
- C. During years when no update occurs, as required above, and beginning in January 2022 the impact fee schedules set forth in Section 31.6 shall be adjusted annually to account for inflationary increases in the costs to the City of providing capital improvements to new development.
- D. These annual adjustments shall be consistent with the methodology set forth in the impact fee study and shall be based on the Construction Cost Index calculated by the Engineering News-Record (ENR), the Broward County Property Appraiser, the U.S. Department of Labor Consumer Price Index, and Florida Department of Transportation databases, as applicable and appropriate to a particular impact fee capital improvement system category.

737 E. After consultation with the City Attorney, the Director shall confirm the
738 reasonableness of the proposed index to the impact fee rates. Based on
739 the reference data and methodology contained in this section, the Director
740 may submit a request for the proposed indexing of the impact fee rates as
741 a separate item in the annual budget submittal to City Commission for the
742 Department of Development Services. If City Commission approves the
743 proposed indexing of the impact fee rate as a part of the department's
744 budget submittal, the Director shall submit an ordinance for City
745 Commission approval, adopting the new impact fee rates, in ordinance
746 with procedures required by law. If City Commission does not adopt the
747 proposed indexing of impact fee rates, the impact fee rate for the previous
748 year remains in effect.

749 F. Increases in impact fee rates:

750 1. Must comply with the developer credit provisions in Section 31.12
751 and must ensure the holders of any impact fee credits created
752 under this article, but in existence before a fee increase, receive the
753 full benefit of the intensity or density prepaid by the credit balance
754 as of the date it was first established, including credits granted
755 under Florida Statute § 163.3180 or § 380.06 after the original
756 effective date of this article, and

757 2. Must comply with the following 2021 revisions to Section
758 163.31801, Florida Statutes:

759 (a) An impact fee may be increased only pursuant to a plan for the
760 imposition, collection, and use of the increased impact fees which
761 complies with this section.

762 (b) An increase to a current impact fee rate of not more than 25
763 percent of the current rate must be implemented in two equal
764 annual increments beginning with the date on which the increased
765 fee is adopted.

766 (c) An increase to a current impact fee rate which exceeds 25

percent but is not more than 50 percent of the current rate must be implemented in four equal installments beginning with the date the increased fee is adopted.

(d) An impact fee increase may not exceed 50 percent of the current impact fee rate.

(e) An impact fee may not be increased more than once every 4 years.

(f) An impact fee may not be increased retroactively for a previous or current fiscal or calendar year.

(g) The City may increase an impact fee rate beyond the phase-in limitations established under paragraph (b), paragraph (c), paragraph (d), or paragraph (e) by establishing the need for such increase in full compliance with the requirements of subsection (4), provided the following criteria are met:

- 1) A demonstrated need study justifying any increase in excess of those authorized in paragraph (b), paragraph (c), paragraph (d), or paragraph (e) has been completed within the 12 months before the adoption of the impact fee increase and expressly demonstrates the extraordinary circumstances necessitating the need to exceed the phase-in limitations.

- 2) The City has held not less than two publicly noticed workshops dedicated to the extraordinary circumstances necessitating the need to exceed the phase-in limitations set forth in paragraph (b), paragraph (c), paragraph (d), or paragraph (e).

- 3) The impact fee increase ordinance is approved by at least a two-thirds vote of the governing body.

(h) This subsection operates retroactively to January 1, 2021.

G. On an annual basis, the Director shall report to the City Commission as to the following:

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.

The City must submit with its annual financial report required under s. 218.32 or its financial audit report required under s. 218.39 a separate affidavit signed by its chief financial officer or, if there is no chief financial officer, its executive officer attesting, to the best of his or her knowledge, that all impact fees were collected and expended by the City, or were collected and expended on its behalf, in full compliance with the spending period provision in the local ordinance or resolution, and that funds expended from each impact fee account were used only to acquire, construct, or improve specific infrastructure needs.

Sec. 31-15. - Vested Rights.

Nothing in this article 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 article and on which there has been a good faith reliance and a substantial change of position.

Sec. 31-16. - Penalty.

Violations of this article may be punished as provided in section 1-8 of the City Code. Additionally, the City may obtain an injunction or other legal or equitable relief in the circuit court against any person violating this article.

Sec. 31-17. - Appeals.

A. Final decisions of the Director, or his or her designee, under this article are subject to appeal. 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 as set forth above shall be waived. The City commission shall hear the appeal. The hearing shall occur within 30 days of the receipt of the appeal, unless waived by the appellant, and a written decision shall be rendered within 20 days of the hearing.

B. Nothing in this section shall affect the remedies the City has available under applicable law.

Sec. 31-18. - Effective Date.

The City will provide notice of not less than ninety (90) days before the effective date of adoption of this chapter and any revisions or any resolution increasing impact fee rates or adopting new impact fee rates.

SECTION III. CODIFICATION. The provisions of this Ordinance shall be codified as and become and be made a part of the *City of Hallandale Beach Code of Ordinances*. The Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention and the word "Ordinance," or similar words, may be changed to "Chapter", "Section," "Article," or other appropriate word; provided, however, that Sections III-VI shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION IV. IMPLEMENTING ADMINISTRATIVE ACTIONS. The City Manager, or designees within City management staff, shall have the power and authority to implement the provisions of this Ordinance by taking appropriate administrative actions to include, but not be limited to, the promulgation of appropriate administrative rules and forms.

SECTION V. CONFLICTS. To the extent of any conflict between any other City regulations and ordinances and this Ordinance, this Ordinance shall be deemed to control. Provided, however, that this Ordinance is not intended to amend or repeal any existing chapter or regulation, unless expressly set forth in this Ordinance.

SECTION VI. SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion hereof.

SECTION VII. EFFECTIVE DATE. This Ordinance shall become effective 90 days after final adoption.

PASSED AND ADOPTED on First Reading, _____, 2021.

PASSED AND ADOPTED on Second Reading, _____, 2022.

JOY F. COOPER
MAYOR

ATTEST:

JENORGEN GUILLEN
CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY
FORM

—

JENNIFER MERINO
CITY ATTORNEY