

ORDINANCE NO. 2020-XX

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) of the Florida Constitution and F.S. sec. 166.021 grant the City broad home rule powers necessary to carry on municipal government.

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

**WHEREAS**, Florida Statutes sec. 163.31801 specifies certain requirements for impact fee ordinances.

**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.

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

**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.

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

**WHEREAS**, in order for future growth to pay more equitably 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.

**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.

**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.

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

**WHEREAS**, the intent of the City in imposing impact fees is to recover only the proportionate

51 share of the costs reasonably connected to meeting the demands of new growth.

52 **WHEREAS**, the report entitled "City of Hallandale Beach Impact Fee Study," dated April 17,  
53 2019, and prepared by Tindale-Oliver & Associates, Inc. (the "Impact Fee Study") sets forth a  
54 methodology and analysis for establishing the impact of new development on the need for and costs of  
55 additional capital improvements related to fire and rescue, law enforcement, parks and recreation, and  
56 multi-modal transportation services in the City.

57 **WHEREAS**, the Impact Fee Study is based on the most recent and localized data;

58 **WHEREAS**, based on the Impact Fee Study, the City Commission finds that the capital  
59 improvement system to be funded with impact fee revenues serves the entire geographic area of the  
60 City and therefore have a benefit citywide to those paying the fees.

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

65 **WHEREAS**, the City Commission finds that the Impact Fee Study has provided revenue credits  
66 for sources of revenue other than impact fees, which also contribute to the provision of capital  
67 improvement facilities, to ensure fee payors do not pay twice for their contributions to new capital  
68 improvement capacity.

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

73 **WHEREAS**, the City Commission further finds that the impact fees calculated in the Impact Fee  
74 Study are proportional, reasonably connected to, and have rational nexus with the expenditures of the  
75 funds collected and the benefits accruing to the new residential and, as applicable, new commercial  
76 construction assessed impact fees by this Ordinance.

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

79 **WHEREAS**, the Impact Fee Study sets forth the calculations and basis for the impact fees  
80 utilized and associated with the provision of City capital improvements needed to serve new  
81 development.

82 **WHEREAS**, the City Commission's intent is to expend the impact fee revenues collected  
83 pursuant to this Ordinance only for the purposes for which they were collected, specifically, to defray the  
84 capital cost incurred to meet the demands imposed by growth.

85 **WHEREAS**, the City provided notice on the \_\_\_\_ day of \_\_\_\_\_, 2020, at least ninety  
86 (90) days prior to the effective date of this Ordinance.

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

89  
90 **SECTION I.** That Chapter 30, Utilities, Article VI, Water and Wastewater Impact Fees, of the  
91 Code of Ordinances of the City of Hallandale Beach, Florida is hereby amended as follows:

92 **Article VI. Water and Wastewater Impact Fees**

93 \*\*\*

94 Sec. 30-245. - Short title.

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

97 \*\*\*

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

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

102

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

105 **Chapter 31. Development Impact Fees**

106 **Article I. General Provisions**

107 **31.1. Short Title.**

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

109 **31.2. Applicability.**

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

115 **31.3. Findings of Fact, Purpose and Intent of Ordinance.**

116 It is hereby ascertained, determined and declared that:

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

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

126 C. Implementation of a reasonable impact fee structure to require future capital  
127 improvement impact projects to contribute their proportional and reasonable share of the cost of  
128 required new capital improvement capacity is an integral and vital element of the regulatory plan of  
129 growth management incorporated in the comprehensive plan.

130 D. The projected capital improvements and additions to the capital improvement system of  
131 the City and the allocation of projected costs between those necessary to serve existing development  
132 and those required to accommodate new capital improvement impact projects, as presented in the  
133 study entitled "Impact Fee Study," approved and adopted by the City Commission  
134 on\_\_\_\_\_,2020, and such projections are found to be in conformity with the comprehensive plan.

135 E. Capital improvement planning is an evolving process, and the capital improvements and  
136 additions to the to fire and rescue facilities, law enforcement facilities, parks and recreation facilities,  
137 and the multi-modal transportation system facilities identified upon the date of adoption of the  
138 ordinance from which this article is derived constitute projections of growth patterns and  
139 improvements and additions based upon present knowledge and judgment. Therefore, in recognition  
140 of changing growth patterns and the dynamic nature of population growth, it is the intent of the City  
141 Commission that the identified improvements and additions to the capital improvement system be  
142 reviewed and adjusted periodically to ensure that impact fees are imposed equitably and lawfully and  
143 are utilized effectively based upon actual and anticipated conditions at the time of their imposition.

144 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 Department of Development Services 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.

#### **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.

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.

Alternative Impact Fee: An alternative fee calculated by an applicant and approved by the Director pursuant to Section 31.11.

Applicant: The person who applies for a building permit for a capital improvement impact project.

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.

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.

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.

Director: The Director of the City's Development Services Department, or the Director's designee.

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.

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.

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

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.

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

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.

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.

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.

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.

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.

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.

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

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.

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

### **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 April 17, 2019, 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.

### **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

HALLANDALE BEACH IMPACT FEE  
Fee Schedule

ITE LUC	Land Use	Unit	Fire Rescue	Law Enforcement	Parks & Recreation	Multi-Modal
<b>RESIDENTIAL:</b>						
210	Single Family (Detached) - Less than 1,500 sf	du	\$546	\$380	\$2,727	\$2,441
	Single Family (Detached) - 1,500 to 2,499 sf	du	\$546	\$380	\$2,727	\$3,068
	Single Family (Detached) - 2,500 sf and greater	du	\$546	\$380	\$2,727	\$3,451
220/221 222/240	Duplex	du	\$402	\$280	\$2,013	-
	Multi-Family (3 to 9 units)/Townhouse/Mobile Home	du	\$314	\$218	\$1,562	-
	Multi-Family (10 or more units)	du	\$196	\$136	\$975	-
220	Multi-Family, Low-Rise (1-2 levels)	du	-	-	-	\$2,185
221	Multi-Family, Mid-Rise (3-10 levels)	du	-	-	-	\$1,631
222	Multi-Family, High-Rise (>10 levels)	du	-	-	-	\$1,332
240	Mobile Home Park	du	-	-	-	\$1,127
253	Congregate Care Facility	du	\$266	\$161	-	\$293
254	Assisted Living	bed	\$294	\$179	-	\$323
<b>LODGING:</b>						
320	Hotel/Motel	room	\$247	\$150	-	\$653
<b>RECREATION:</b>						
416	Campground/RV Park	site	\$155	\$94	-	\$428
420	Marina	boat berth	\$51	\$31	-	\$847
430	Golf Course	hole	\$285	\$173	-	\$10,716
444	Movie Theater	screen	\$1,967	\$1,196	-	\$12,529
492	Health/Fitness Club	1,000 sf	\$911	\$554	-	\$9,794
<b>INSTITUTIONS:</b>						
520	Elementary School (Private)	student	\$25	\$15	-	\$295
522	Middle/Junior High School (Private)	student	\$28	\$17	-	\$331
530	High School (Private)	student	\$28	\$17	-	\$346
540	University/Junior College (7,500 or fewer students) (Private)	student	\$32	\$19	-	\$713
550	University/Junior College (more than 7,500 students) (Private)	student	\$25	\$15	-	\$535
560	Church	1,000 sf	\$120	\$73	-	\$1,427
565	Day Care Center	1,000 sf	\$256	\$156	-	\$4,068
610	Hospital	1,000 sf	\$408	\$248	-	\$3,267
620	Nursing Home	bed	\$345	\$210	-	\$388
630	Clinic	1,000 sf	\$576	\$350	-	\$10,421
<b>OFFICE:</b>						
710	Office Building	1,000 sf	\$275	\$167	-	\$2,710
<b>RETAIL:</b>						
820	Shopping Center/Retail	1,000 sf gla	\$477	\$290	-	\$4,253
840/841	New/Used Auto Sales	1,000 sf	\$500	\$304	-	\$5,225
862	Home Improvement Superstore	1,000 sf	\$617	\$375	-	\$2,774
880/881	Pharmacy with & without Drive-Through Window	1,000 sf	\$591	\$360	-	\$3,850
890	Furniture Store	1,000 sf	\$101	\$62	-	\$1,220
912	Drive-In Bank	1,000 sf	\$474	\$288	-	\$6,537
931	Restaurant, non-Fast Food	1,000 sf	\$1,685	\$1,025	-	\$11,919
934	Fast Food Restaurant w/Drive-Thru	1,000 sf	\$2,878	\$1,750	-	\$31,796
942	Automobile Care Center	1,000 sf	\$531	\$323	-	\$4,254
944	Gas Station w/Convenience Market <2,000 sq ft	fuel pos.	\$465	\$283	-	\$4,134
945	Gas Station w/Convenience Market 2,000-2,999 sq ft	fuel pos.	\$569	\$346	-	\$4,929
960	Gas Station w/Convenience Market 3,000+ sq ft	fuel pos.	\$645	\$392	-	\$5,531
947	Self-Service Car Wash	service bay	\$307	\$186	-	\$3,629
<b>INDUSTRIAL:</b>						
110	Light Industrial	1,000 sf	\$152	\$92	-	\$1,381
140	Manufacturing	1,000 sf	\$142	\$87	-	\$1,097
151	Mini-Warehouse/Warehouse	1,000 sf	\$13	\$8	-	\$279

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.

284 **31.7. Exemptions.**

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

- 286 (1) Alteration, expansion or replacement of an existing dwelling unit which does not  
287 increase the number of families which that dwelling unit is arranged, designed,  
288 or intended to accommodate for the purpose of providing living quarters.
- 289 (2) Alteration or expansion of a building if the building use upon completion does not  
290 generate greater demand for the applicable category of the capital improvement  
291 system than was assumed in the impact fee study and reflected under the  
292 applicable impact fee rate.
- 293 (3) Replacement of a building or the construction of an accessory building if the  
294 replacement building or accessory building does not result in a land use  
295 generating greater demand for the applicable category of the capital improvement  
296 system than was assumed in the impact fee study and reflected under the  
297 applicable impact fee rate.
- 298 (4) Temporary construction sheds or trailers erected to assist in construction and  
299 maintained during the term of a building permit.
- 300 (5) Public schools and charter schools, pursuant to Florida Statutes §  
301 1002.33(18)(d).
- 302 (6) Any other use exempt under Florida Statutes.

303 B. The City shall not increase impact fee rates to offset any reduced revenue resulting from  
304 exemptions granted under this section, if any. In addition, to the extent an impact-  
305 generating use is exempt, the City will further ensure sufficient funding availability to  
306 maintain levels of service.

307 **31.8 Payment.**

308 A. Except as otherwise provided in this article, no person shall carry out any  
309 capital improvement impact project unless the appropriate impact fee as set forth in Section  
310 31.6, 31.8, 3.10, or 31.11 is paid at the time of issuance of the building permit for  
311 the capital improvement impact project.

312 B. Except as provided in C. below, each proposed capital improvement  
313 impact project shall be categorized by the Director according to the land use categories set  
314 forth in Section 31.6. The Director will categorize a proposed capital improvement impact  
315 project based on the meanings assumed in the impact fee study, the definitions in Section  
316 32-8 of the Zoning and Land Development Code, the Land-Based Classification  
317 Standards, (APA) (<https://www.planning.org/lbcs/>), or other generally-accepted source.

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

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

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

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

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

329 **31.9. Changes in use.**

330 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.

#### **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.

#### **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 multimodal 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.

#### **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. 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), and other applicable laws.

C. 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.

D. 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.

E. Unless established otherwise by the Director, based on prior documentation, the amount of credit resulting from a capital improvement obligated prior to the effective date of this 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.

F. 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.

G. 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.

H. 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.

I. 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.

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

K. 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).

L. 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.

M. 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.

N. 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.

O. 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.

### **31.13. Use of Funds; Refunds.**

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

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

B. The accounting funds shall be maintained separate and apart from each other and from all other accounts of the City. All impact

582 fees shall be deposited into the corresponding fund immediately upon receipt.

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

- 586 (1) design and construction plan preparation;
- 587 (2) building construction;
- 588 (3) permitting;
- 589 (4) right-of-way and land acquisition, including all costs of acquisition or  
590 condemnation;
- 591 (5) construction management and inspection;
- 592 (6) surveying and soils and material testing;
- 593 (7) necessary capital equipment;
- 594 (8) repayment of monies transferred or borrowed from any  
595 budgetary fund of the City which were used to fund a capital improvement; and
- 596 (9) payment of principal and interest, necessary reserves and  
597 costs of issuance under any bonds or other indebtedness issued by the City to provide  
598 funds to construct or acquire capital improvements to the City's capital improvement  
599 system, in order to mitigate increased impacts generated by new residential and, as  
600 applicable, nonresidential construction.

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

606 E. Funds on deposit in an impact fee fund shall not be used  
607 for any expenditure that would be classified as a maintenance, operation,  
608 or repair expense or to cure an existing deficiency in the capital  
609 improvement system.

610 F. Funds on deposit in an impact fee fund shall not be used  
611 for any expenditure other than for the same category of capital improvement  
612 system fee for which the fee was collected, in accordance with the impact fee  
613 study, and only within the same benefit district from which the fees were  
614 collected.

615 G. The monies deposited into an impact fee fund shall be  
616 used solely to provide additional capital improvement capacity to the city's  
617 capital improvement system required to accommodate new capital  
618 improvement impact projects, as provided in the City's Five Year Capital  
619 Improvement Plan or by agreement with Broward County or other  
620 partnering agency providing capital improvements in the City impact fee  
621 benefit district.

622 H. Any monies on deposit which are not immediately  
623 necessary for expenditure shall be invested in interest bearing accounts by  
624 the City. All interest income derived from such investments shall remain  
625 or be deposited in the impact fee accounting fund on which the interest  
626 income was earned.

627 I. The impact fees collected pursuant to this article shall be returned  
628 to the applicant that paid them on the building permit if:

- 629 (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.

#### **31.14. Updating, Indexing, Annual Reporting, and Audits**

- A. At least once every three (3) years, the City shall update the impact fee study that provides the basis for the impact fees imposed under this article.  
B. 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.

- 678 C. These annual adjustments shall be consistent with the methodology set forth in the  
679 impact fee study and shall be based on the Construction Cost Index calculated by the  
680 Engineering News-Record (ENR), the Broward County Property Appraiser, the U.S.  
681 Department of Labor Consumer Price Index, and Florida Department of Transportation  
682 databases, as applicable and appropriate to a particular impact fee capital improvement  
683 system category.
- 684 D. After consultation with the City Attorney, the Director shall confirm the reasonableness of  
685 the proposed index to the impact fee rates. Based on the reference data and  
686 methodology contained in this section, the Director may submit a request for the  
687 proposed indexing of the impact fee rates as a separate item in the annual budget  
688 submittal to City Commission for the Department of Development Services. If City  
689 Commission approves the proposed indexing of the impact fee rate as a part of the  
690 department's budget submittal, the Director shall submit an ordinance for City  
691 Commission approval, adopting the new impact fee rates, in ordinance with procedures  
692 required by law. If City Commission does not adopt the proposed indexing of impact fee  
693 rates, the impact fee rate for the previous year remains in effect.
- 694 E. Increases in impact fee rates must comply with the developer credit provisions in Section  
695 31.12 and must ensure the holders of any impact fee credits created under this article,  
696 but in existence before a fee increase, receive the full benefit of the intensity or density  
697 prepaid by the credit balance as of the date it was first established, including credits  
698 granted under Florida Statute § 163.3180 or § 380.06 after the original effective date of  
699 this article.
- 700 F. On an annual basis, the Director shall report to the City Commission as to the following:
- 701 1. the amount of impact fee revenues currently on account for each category of the  
702 capital improvement system for which impact fees are collected;
- 703 2. the amount and nature of any expenditure or encumbrance of impact fees since  
704 the prior annual report;
- 705 3. the status of outstanding developer credits and credit balances; and
- 706 4. the amount and nature of any planned expenditures or encumbrances of impact  
707 fees prior to the next annual report.
- 708 G. Audits of the City's financial statements, which are performed by a certified public  
709 accountant pursuant to § 218.39, Florida Statutes and submitted to the Auditor General,  
710 must include an affidavit signed by the Finance Director, stating that the City has  
711 complied with the requirements of Florida Statutes § 163.31801.

### 712 **31.15. Vested Rights.**

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

### 716 **31.16. Penalty.**

717 Violations of this article may be punished as provided in section 1-8 of the City Code. Additionally, the  
718 county may obtain an injunction or other legal or equitable relief in the circuit court against any person  
719 violating this article.  
720

### 721 **31.17. Appeals.**

- 722 A. Final decisions of the Director, or his or her designee, under this article are subject to  
723 appeal. An appeal must be filed with the city clerk within 30 days of the date of the final  
724 decision to be appealed. Any appeal not timely filed as set forth above shall be waived.  
725 The city commission shall hear the appeal. The hearing shall occur within 30 days of the  
726 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.

**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 relettered 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 immediately upon its adoption.

PASSED AND ADOPTED on First Reading, \_\_\_\_\_, 2020.

PASSED AND ADOPTED on Second Reading, \_\_\_\_\_, 2020.

\_\_\_\_\_  
JOY COOPER  
MAYOR

ATTEST:

\_\_\_\_\_  
JENORGEN GUILLEN  
CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY



770 FORM

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774 JENNIFER MERINO

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775 CITY ATTORNEY

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