

## HERNANDO COUNTY STAFF REPORT

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**TOPIC:** Impact Fee Direction Discussion

**HEARINGS:** Board of County Commissioners: August 23, 2022

**STAFF REQUEST:** BOCC Provide Direction for Staff Update of Impact Fees

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**STAFF REQUEST:**

Staff requests that the BOCC provide direction on the preparation of updated impact fees following the completion of the County's impact fee study. The two options available to the County are to either adopt impact fees consistent with Florida State Statute 163.31801 up to a maximum increase of 50 percent of the current impact fee rate or designate, by study, a need in excess of the statutory 50 percent maximum increase and adopt consistent with State Statute procedures.

**FL STATE STATUTE:**

**Florida State Statute 163.31801**

**Impact Fee Increase:**

Florida State Statute 163.31801(6)

(6) A local government, school district, or special district may increase an impact fee only as provided in this subsection.

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

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

(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.

**Impact Fee Increase above**

**Statutory Maximum:** Florida State Statute 163.31801(6)(g)

(g) A local government, school district, or special district 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 local government jurisdiction 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.

**Notable Impact Fee Requirements:**

- The calculation of the impact fee must be based upon the most recent and localized data.

- Collection of the impact fee may be no earlier than the date of the issuance of a building permit (not prepaid).
- The impact fee must be proportional and reasonably connected to, or have a rational nexus with the need for capital facilities generated by new growth, and the benefit accrued to new growth.
- Credits must be applied on a dollar-for-dollar basis for any contributions made by the fee payer.
- If any challenge, the local government has the burden of providing by a preponderance of evidence that the impact fee meets the legal precedent that the fee is correct.
- Impact fees shall be used exclusively for the purpose of capital improvements, equipment and facilities.
- Impact fees may be used to pay debt service to the extent that the facilities provided are an eligible expense.
- Credits may be obtained to the extent that the fee payer provides an eligible capital improvement (land facilities, equipment, other improvements)
- Impact fees should be reviewed periodically for accuracy (Every 5 Years per Code)

**IMPACT FEE STUDY:**

- Board Presentation 5-4-21; Report Final provided by Benesch 7-13-22
  - Final Report Provided in agenda attachments.
- Covered Fire; EMS, Public Buildings, Jail, Law Enforcement, Library, Parks.
- Consolidated Fire/EMS into one fee
- Included a list of updated land use categories
- The updated land use categories included a small number of fees that were reduced (i.e., warehouse, mini storage, furniture store).

**CURRENT IMPACT FEE EXAMPLES:**

- Single Family - \$5,757
- Multi Family - \$5,010
- Medical (10,000 sq. ft. or greater) - \$5,172
- Fast Food with drive through - \$19,122
- Retail/Shopping Center - \$3,027

**OPTION 1 STATUTORY MAXIMUM IMPACT FEE EXAMPLES:**

This option is in conformance with FI State Statute 161.31801(6). 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.

- Single Family - \$8,635
- Multi Family - \$7,515
- Medical (10,000 sq. ft. or greater) - \$7,758
- Fast Food with drive through - \$28,683
- Retail/Shopping Center - \$4,540

The recommended components of the option one impact fee increase include funding Public Building at 75% of study findings, Parks and Recreation at 100% of study findings, and the remainder of the increase allocated to Transportation.

**OPTION 2 IMPACT FEES EXCEEDING STATUTORY MAXIMUM EXAMPLES:**

This option would need to be adopted in strict adherence to FI State Statute 161.31801(6)(g). The Statute requires a demonstrated-need study justifying any increase exceeding those outlined in option 1. Additionally, the increase must be shown to be the result of extraordinary circumstances with two publicly noticed workshops dedicated to the extraordinary circumstances necessitating the need.

The increase of each component in the resulting Impact fee may not exceed 100% of the study findings. The components of the over all impact fee include areas such as Fire, EMS, Public Buildings, Jail, Law Enforcement, Library, Parks, education, transportation, etc.

- Single Family - \$14,970
- Multi Family - \$12,595
- Medical (10,000 sq. ft. or greater) - \$21,929
- Fast Food with drive through - \$90,115
- Retail/Shopping Center - \$10,270

**STAFF RECOMMENDATION:**

BOCC provide staff direction on the preparation of updated impact fees. Two options are available to the County.

1. Prepare an impact fee update consistent with Florida State Statute 163.31801 up to a maximum increase of 50 percent of the current impact fee rate.
2. Designate a need in excess of the statutory 50 percent maximum increase and adopt consistent with State Statute procedures.

Historical Purpose Only Not Updated with Current figures