

ORDINANCE NO. 2020-08

AN ORDINANCE OF THE CITY OF DUNNELLON, FLORIDA, REGULATING IMPACT FEES; PROVIDING FOR CREATION OF POLICE IMPACT FEES TO BE EFFECTIVE NINETY (90) DAYS FROM ADOPTION OF THIS ORDINANCE; ADOPTING A POLICE IMPACT FEE STUDY DATED MAY 28, 2020; CREATING CHAPTER 71, "IMPACT FEES," OF THE CODE OF ORDINANCES; PROVIDING REGULATIONS PERTAINING TO POLICE IMPACT FEES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY AND CONFLICTS, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, under its home rule powers and pursuant to §163.31801, Florida Statutes and judicially created law, the City of Dunnellon may impose impact fees to ensure that new development pays for its proportional share of capital facilities required by such new development; and

WHEREAS, the City Council of the City of Dunnellon has studied the necessity for and implications of the adoption of an ordinance creating police impact fees and has retained a professional consulting firm to prepare a study relating to police impact fees (the "Study") to determine the proportionate demand that new development generates for additional police improvements and facilities; and

WHEREAS, the Study has been presented to, and reviewed by, the City Council of the City of Dunnellon, and it has been determined (1) that police impact fees are necessary to offset the costs associated with meeting future demands for the City's police facilities pursuant to the projections set forth in the Study; (2) that the police impact fees bear a reasonable relationship to the burden imposed upon the City to provide police facilities to new City residents; (3) that police impact fee revenues will provide a direct benefit to such new City residents reasonably related to the fees assessed; (4) that an essential nexus exists between projected new development and the need for additional police facilities to be funded with police impact fees and the benefits that accrue to new development paying the fees; and (5) that the amount of the police impact fees are roughly proportional to the *pro rata* share of the additional police facilities needed to serve new development; and

WHEREAS, the costs of real property for use in police facilities development and the costs of various facilities and equipment have been used by the City's consultant in developing a development impact cost per land use type as set forth in the Study; and

WHEREAS, the decisions of the City Council as set forth herein are reasonable and prudent steps pertaining to sound growth management which have been taken for the benefit of the citizens of the City, both present and future; and

WHEREAS, the City is projected to significantly grow in population and further economically develop in the future; and

WHEREAS, this Ordinance contains an administrative framework to ensure that the benefit of police facilities funded with police impact fees will accrue proportionately to new development paying the fees; and

WHEREAS, Section 163.3202(3), *Florida Statutes*, encourages the use of innovative land use regulations and impact fees by local governments to manage growth and to provide the necessary public facilities and for the imposition by local governments of impact fees on development to fund the capital cost of facilities necessitated by such development; and

WHEREAS, requiring future growth to contribute its fair share of the costs necessary to fund required capital improvements and additions is an integral and vital part of the regulatory plan of growth management in the City and is a practice consistent with sound and generally accepted growth management, fiscal and public administration practices and principles.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Dunnellon, Florida, as follows:

SECTION 1. The above recitals, or “Whereas” clauses, are hereby adopted as the City Council’s legislative findings and are incorporated herein by reference.

SECTION 2. Chapter 71 of the Dunnellon Code of Ordinances, to be entitled “Impact Fees,” is hereby created as follows:

CHAPTER 71 – IMPACT FEES

ARTICLE I. IN GENERAL

Sec. 19-1. Short title and authority.

- (a) This chapter shall be known and may be cited as "Dunnellon Impact Fees."
- (b) The City Council has the authority to adopt this chapter pursuant to article VII of the Constitution of the State of Florida, F.S. Ch. 166, and §163.31801, F.S.

Sec. 19-2. Intent and purpose.

- (a) The purpose of this chapter is to ensure that new development pays its proportionate share of the anticipated costs of public facilities necessary to provide police protection for the new development.
- (b) The intent of the City Council is to ensure that its impact fee schedules reflect the most recent and localized data pertaining to growth patterns in the City and the cost of public facilities necessary to provide police protection for new development.

Sec. 19-3. Administrative charges.

If established, administrative charges shall be collected from each applicant and shall be distributed as appropriate for impact fee administration, for financial administration, and for costs related to the establishment, amendment and annual review/update of the impact fee ordinance and methodology. Administrative charges, if adopted, shall be set by resolution and shall be based upon incurred and anticipated costs to create, administer, update and manage the impact fee system and shall not exceed actual costs of the City. Administrative charges, if collected, shall not be deposited in any impact fee capital fund accounts.

Sec. 19-4. Impact fee capital fund accounts and use of capital fund account monies.

(a) There is an established capital fund accounts for police impact fees, to be designated as the “police impact fee account.” The capital fund account for impact fees shall continue to be maintained separate and apart from all other accounts of the City. The monies deposited into the impact fee capital fund account shall be used solely for the purposes as set forth in this chapter and shall be accounted for accordingly.

(b) Funds on deposit in impact fee accounts established within this article shall not be used for any expenditure that would be classified as an operational expense, a maintenance expense, or a repair or replacement expense.

(c) Any funds on deposit in the impact fee fund not immediately necessary for expenditure shall be invested in interest-bearing accounts. Applicants shall not receive a credit for or be entitled to interest from the investment of such funds, except as otherwise required in this chapter.

Sec. 19-6. Impact fees are nontransferable unless such transfer is specifically required to be authorized by Florida Law.

Impact fees shall remain with the property on which they were paid and are not transferable unless such transfer is specifically required to be authorized by Florida Law. Even if a structure on the property is moved to a new location, the impact fees shall remain with the property unless such transfer is specifically required to be authorized by Florida Law.

Sec. 19-7. Non-binding impact fee estimate.

An applicant may request an estimate of impact fees which may be imposed by filing a written request to the City. Any estimate which the City provides is non-binding and may be subject to change when the impact fees become due and payable pursuant to this chapter. Non-binding estimates are for the sole benefit of the prospective applicant and neither bind the City nor preclude it from making amendments or revisions to any provisions of this chapter. No vested rights, legal entitlements, or equitable estoppel accrue by reason of a non-binding estimate. A non-binding fee estimate does not constitute a final decision and may not be appealed pursuant to this chapter.

Sec. 19-8. Definitions.

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

except as otherwise provided. For words, terms and phrases not listed in this section, definitions in the City of Dunnellon Land Development Code may apply.

Applicant means any person, developer, builder or entity which requires public services as a result of development for the benefit of itself or a prospective future occupant.

Building is any structure, either temporary or permanent, designed or built for the support, enclosure shelter or protection of persons, chattels or property of any kind. This term shall include trailers, mobile homes or any other vehicles serving in any way the function of a building. This term shall not include temporary construction sheds or trailers erected to assist in construction and maintained during the time of a construction.

Dwelling Unit is a room or rooms connected together and constituting a separate, independent housekeeping establishment for one family only, for occupancy periods of no less than thirty (30) consecutive days and containing independent cooking and sleeping facilities.

Hotel/Motel is the category applied to any hotels, motels, or short term rental accommodation sites.

Industrial is the category used to account for larger footprint facilities that do not generate significant traffic demands such as self-service storage facilities, printing plants, material testing laboratories, power stations and sites where the primary activity is manufacturing or converting raw materials or parts into finished products.

Institutional is the category applied to those specific property types including churches, day care centers, hospitals, nursing homes and other similar service-based facilities.

Office is the category applied to office buildings containing one or multiple tenants and are a location where affairs of business are conducted. Office buildings may or may not contain tenant services such as a bank or savings and loan, a restaurant or cafeteria, and service retail facilities. This land use also encompasses Medical-Dental office buildings where outpatient care is performed on a routine basis, but no prolonged in-house medical/surgical care is provided.

Owner of record means the most recent owner of a parcel of property appearing in the Official Records of Marion County, Florida.

Residential means multi-family dwelling units, mobile homes, and single-family detached houses.

Retail is the category applied to land uses that generally encompass commercial merchandizing establishments ranging from factory outlet centers, restaurants, automobile repairs and/or sales, gasoline/service stations, convenience markets, electronics/toy stores, and/or apparel/furniture sales.

Single-family house is a dwelling unit on an individual lot.

Sec. 19-9. Administrative rules and policies.

The City Administrator or designee is hereby authorized to adopt administrative rules and policies to implement the provisions of this chapter as the City Administrator deems necessary and appropriate.

Sec. 19-10. Appeals.

(a) Any person who disagrees with a decision or interpretation of this chapter may appeal to the City Administrator or designee by filing a written notice of appeal within ten (10) days after the date of the action or decision complained of. The written notice of appeal shall set forth concisely the action or decision appealed as well as the grounds upon which the appeal is based. The City Administrator or designee shall consider all facts material to the appeal and render a written decision within thirty (30) days of receiving the appeal. Any person who disagrees with the decision of the City Administrator or designee may appeal to the City Council by filing a written notice of appeal with the City Administrator's office setting forth concisely the decision appealed within ten (10) days after the date of the City Administrator's decision. The appeal shall be set for the next available City Council meeting for consideration. The City Council's written decision and shall constitute final administrative review.

(b) Appeal fees commensurate with costs incurred by the City, as set by resolution, shall be paid by the applicant prior to a decision being rendered.

Sec. 19-11. Penalties and liens against property.

Violations of this Chapter shall be prosecuted as provided by City Code or by an injunction or other legal or equitable relief in the circuit court against any person violating this Chapter. Failure to pay an impact fee when determined by the city that an obligation is required to satisfy the impact of development may result in the amount due becoming a lien against the property. The City shall provide a written notice of the impact fee due by personal service, certified, return receipt requested United States mail or Federal Express or other equivalent overnight letter delivery company.

ARTICLE II. POLICE IMPACT FEES

Sec. 19-20. Adoption of impact fee study.

(a) The City Council hereby adopts by reference the study entitled "City of Dunnellon 2020 Municipal Impact Fee Study," dated May 28, 2020, as prepared by Raftelis Financial Consultants, Inc. It relates to the computation and allocation of the capital costs of the City of Dunnellon to provide police protection.

(b) The City Council finds there is a reasonable connection, or rational nexus, between the need for police facilities in the City and the growth in population anticipated within the city. In addition, the City Council finds there is a reasonable connection, or rational nexus, between the anticipated

expenditures of the police impact fees collected and the benefits accruing to anticipated new development.

Sec. 19-21. Imposition of police impact fees.

(a) Any applicant who seeks to develop land or make improvements to real property shall pay the following police impact fees in the manner and amount established and computed pursuant to this article.

(b) The City of Dunnellon police impact fee shall be as follows:

Land Use	Calculated Impact Fee
Residential (per dwelling unit)	\$315.00
Hotel/Motel (per room)	
Non-residential:	
Office (per square foot)	\$0.145
Retail (per square foot)	\$0.365
Institutional (per square foot)	\$0.190
Industrial (per square foot)	\$0.035

Sec. 19-22. Schedule of payment of police impact fees.

The police impact fee shall be paid at the time of issuance of a building permit for a structure or structures, or such other time as may be specifically provided by a developer's agreement.

Sec. 19-23. Disposition of revenues imposed by police impact fee.

The funds collected by reason of establishment of the police impact fees in accordance with this Article shall be used solely for the purpose of acquisition of facilities and equipment determined to be needed to provide police for new development within the City. Said funds shall not be used to maintain or repair existing police facilities or equipment or to acquire facilities or equipment to serve existing development. The City shall spend funds on a first in, first out basis.

Sec. 19-24. Disposition of funds not expended.

(a) If the City of Dunnellon police impact fees have not been expended or encumbered by the end of the calendar quarter immediately following ten (10) years from the date the fees were paid, upon application of the fee payer of proof of payment, or proof of the date the development permit was approved by the City and that development was never begun, the fees shall be returned with interest at the rate determined by the City based upon the average interest earning rate incurred by the City in accordance with the following procedure:

(1) The present owner must petition the City Council for the refund within one year following the end of the calendar quarter immediately following ten (10) years from the date on which the fee was received.

- (2) The petition must be submitted to the City Administrator and must contain:
 - (i) A notarized sworn statement that the petitioner is the current owner of the property;
 - (ii) A copy of the dated receipt issued for payment of the fee or other document evidencing the date the development was approved by the City, which development was never begun;
 - (iii) A certified copy of the latest recorded deed; and
 - (iv) A copy of the most recent ad valorem tax bill.
- (3) If reimbursement is approved, the City shall remit to the petitioner within 60 days of approval.
 - (b) In determining whether a petitioner is entitled to a refund, it shall be assumed that impact fees are expended or encumbered in the same order in which they were received (that is, "first in, first out").
 - (c) No refund shall be made of any administrative fee authorized and collected pursuant to this chapter.

Sec. 19-25. Charge when use of property changed.

Any change in the use of property shall require payment of a police impact fee in an amount equal to the increased calculation.

SECTION 3. Codification. It is the intent of the City Council of the City of Dunnellon that the provisions of Section 2 of this Ordinance shall be codified. The codifier is granted broad and liberal authority in renumbering and codifying the provisions of Section 2 of this Ordinance; article and section numbers assigned throughout are suggested by the City.

SECTION 4. Severability. If any section, sentence, phrase, word or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word or portion of this Ordinance not otherwise determined to be invalid, unlawful or unconstitutional.

SECTION 5. Conflicts. In any case where a provision of this Ordinance is found to be in conflict with a provision of any other ordinance of this City, the provision which establishes the higher standards for the promotion and protection of the health and safety of the people shall prevail.

SECTION 6. Effective Date. This Ordinance shall become effective on October 11 2020, which is ninety (90) days from the date of adoption of this Ordinance, pursuant to §163.31801, Florida Statutes.

Upon motion duly made and carried, the foregoing Ordinance was approved upon the first reading on the 8th day of June 2020.

Upon motion duly made and carried, the foregoing Ordinance was approved and passed upon the second and final reading and public hearing on the 13th day of July 2020.

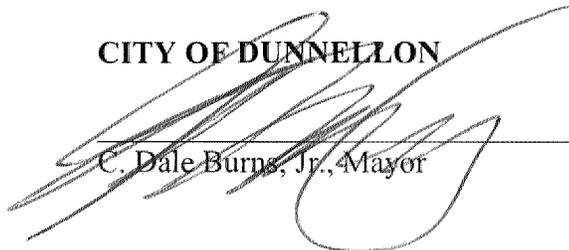
Ordinance Posted on the City's website on May 28, 2020. Public hearing advertised on the City's website on June 10, 2020 and advertised in the Riverland News on July 2, 2020.

ATTEST:



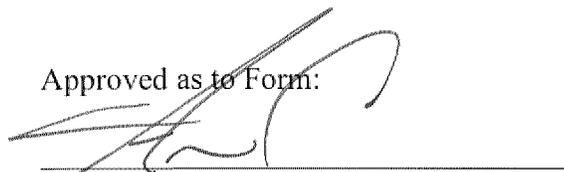
Amanda L. Roberts, CMC
City Clerk

CITY OF DUNNELLON



C. Dale Burns, Jr., Mayor

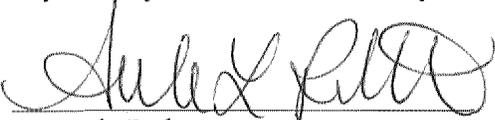
Approved as to Form:



Andrew J. Hand, City Attorney

CERTIFICATE OF POSTING

I HEREBY CERTIFY that copies of the foregoing Ordinance were posted at City Hall, the Chamber of Commerce, and the Dunnellon Library, in the City of Dunnellon, Florida, this 28th day of May 2020 and on the City's Official Website the 28th day of May 2020.



Amanda Roberts
City Clerk