

## **ORDINANCE 15-43**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT; PROVIDING A STATEMENT OF PURPOSE AND INTENT; PROVIDING FINDINGS; AMENDING THE MANATEE COUNTY LAND DEVELOPMENT CODE (ORDINANCE 90-01, AS AMENDED, THE “CODE”); ADOPTING A NEW SCHEDULE OF IMPACT FEES EFFECTIVE AS OF APRIL 18, 2016, BASED ON THE MOST RECENT IMPACT FEE STUDY COMPLETED BY THE COUNTY IN ACCORDANCE WITH THE FLORIDA IMPACT FEE ACT; AMENDING SECTION 200 OF THE CODE TO PROVIDE NEW OR REVISED DEFINITIONS OF TERMS RELATING TO IMPACT FEES; AMENDING AND RESTATING CHAPTER 11 OF THE CODE, IMPACT FEES, TO PROVIDE FOR A TITLE, AUTHORITY AND APPLICABILITY; TO PROVIDE FOR LEGISLATIVE FINDINGS, RELIANCE UPON THE IMPACT FEE STUDY, AND INTENT; TO PROVIDE FOR IMPACT FEES TO BE IMPOSED; TO PROVIDE FOR USE OF IMPACT FEE FUNDS; TO PROVIDE FOR BENEFIT DISTRICTS; TO PROVIDE FOR REFUNDS OF IMPACT FEES PAID; TO PROVIDE FOR CREDITS AGAINST IMPACT FEES; TO PROVIDE FOR APPEALS; AND TO PROVIDE MISCELLANEOUS PROVISIONS; PROVIDING FOR APPLICABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR NOTICE OF THE NEW AND AMENDED IMPACT FEES IN ACCORDANCE WITH THE FLORIDA IMPACT FEE ACT; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Ordinance No. 04-19, codified as Chapter 11 of the Land Development Code (the “Impact Fee Ordinance”), the County has established a system of impact fees to fund capital facilities needed in order to accommodate new development, based upon an impact fee study and other testimony and evidence entered into the record at the public hearings held for the adoption of the Impact Fee Ordinance; and

**WHEREAS**, The Impact Fee Ordinance and Section 163.31801, *Florida Statutes* (the “Florida Impact Fee Act” or “Act”), require that the County periodically restudy and revise its impact fees to assure that such impact fees are based upon the most recent and localized data as required pursuant to the Act, and

**WHEREAS**, Florida Statutes Section 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 County’s Comprehensive Plan; and

**WHEREAS**, Policy 10.1.3.1 of the County's Comprehensive Plan is to use impact fees as a means of meeting the demands for public facility capital improvements necessitated by new development; and

**WHEREAS**, Policy 10.1.4 and Policy 10.1.10.1 of the County's Comprehensive Plan call upon the County to consider changes to the adopted Impact Fee Ordinance pursuant to the annual reporting process and Growth Management public meeting process; and

**WHEREAS**, the Manatee County Board of County Commissioners (the "Board") retained the firm of TischlerBise to study the need to update the County's existing impact fees for transportation and multimodal facilities, law enforcement facilities, parks and natural resource facilities and public safety facilities, to evaluate the need for library facilities, and to establish the proportionate share of new development's demand for capital improvements to these facilities; and

**WHEREAS**, TischlerBise has prepared and presented to the Board a report titled, "Manatee County 2015 Impact Fee Update Study," dated December 3, 2015 (the "Impact Fee Study"); and

**WHEREAS**, Goal 2.1 of the County's Comprehensive Plan, among other things includes goals, objectives, and policies for limiting urban sprawl, providing a predictable and functional urban form, encouraging development and redevelopment in the existing urban core area; and

**WHEREAS**, Goal 5.0 of the County's Comprehensive Plan, among other things, calls for a multimodal transportation system that serves to increase mobility and is coordinated with the County's Future Land Use Map and Future Land Use Element of the Comprehensive Plan; and

**WHEREAS**, Goal 5.6 of the County's Comprehensive Plan, among other things, calls for a full range of transportation alternatives and a financially-feasible transit system; and for alternatives to the single-occupancy automobile; and

**WHEREAS**, the Impact Fee Study identifies that proportionate impact necessitated by new development on transportation and multimodal facilities in unincorporated Manatee County; and

**WHEREAS**, the Board wishes to implement a multimodal transportation impact fee to promote a mix of transportation alternatives, in accordance with the County's Comprehensive Plan goals, objectives, and policies; and

**WHEREAS**, the Impact Fee Study establishes the proportionate share costs necessitated by new development's impacts on capital improvements for transportation and multimodal facilities, law enforcement facilities, parks and natural resource facilities, public safety facilities, and library facilities in unincorporated Manatee County, in compliance with Florida case law and legislation; and

**WHEREAS**, pursuant to the Florida Impact Fee Act:

- (a) the Impact Fee Study, and the impact fees recommended therein, are based on the most recent and localized data;
- (b) this Ordinance includes procedures for accounting and reporting of impact fee collections and expenditures in order to assure compliance with applicable legal standards;
- (c) this Ordinance includes separate accounting funds for each public facility for which an impact fee is collected, by benefit district, as applicable;
- (d) administrative fees charged pursuant to this Ordinance for the collection of impact fees are limited to actual costs;
- (e) the County provided notice at least ninety (90) days prior to the effective date of this Ordinance; and
- (f) this Ordinance requires audits of the County's financial statements to include an affidavit of the County's chief financial officer stating that the requirements of the Florida Impact Fee Act have been complied with; and

**WHEREAS**, the impact fees assessed pursuant to this Ordinance are necessary to ensure the public health, safety, and welfare of the residents of Manatee County.

**BE IT ORDAINED** by the Board of County Commissioners of Manatee County, Florida:

Section 1. Purpose and Intent. This Ordinance is enacted to carry out the purpose and intent of and exercise the authority set out in the Local Government Comprehensive Planning and Land Development Regulation Act, Part II of Chapter 163, *Florida Statutes*, and Chapter 125, *Florida Statutes*, as amended.

Section 2. Findings. The Board of County Commissioners relies upon the following findings in the adoption of this Ordinance:

- A. The statements set forth in the above recitals to this Ordinance are true and correct.
- B. The amendments to the Land Development Code set forth herein are necessary to fund capital facilities needed in order to accommodate new development.
- C. Based on forecasts in the Manatee County Comprehensive Plan, new growth and development in the County is expected to continue into the foreseeable future, placing ever-increasing demands on County Capital Parks and Natural Resources Facilities, Capital Multimodal Transportation Facilities, Capital Law Enforcement Facilities, Capital Public Safety Facilities and Capital Library Facilities (collectively, "County

Capital Facilities”), requiring expansion of these County Capital Facilities to accommodate new growth and development.

- D. County Capital Facilities are provided by the County to serve the residents of the County.
- E. The County retained TischlerBise to prepare the Impact Fee Study which is incorporated herein by reference.
- F. The Impact Fee Study sets forth reasonable methodologies and analyses for determining the impacts of new development on the County’s Facilities.
- G. Based upon the Impact Fee Study and other testimony and evidence entered into the record at the public hearings held for the adoption of this Ordinance, the Impact Fees levied pursuant to the Land Development Code, as amended hereby, are fair, reasonable and roughly proportionate to the capital needs generated by the new development for which such fees shall be levied and do not exceed the costs incurred by the County to accommodate the new development that will pay the Impact Fees.
- H. The adoption of Impact Fees that impose a proportionate share of the costs the County will incur in providing for the expansion of County Capital Facilities implements the Manatee County Comprehensive Plan and ensures new growth and development pays a fair share of the costs the County will incur in accommodating it.
- I. There is both a rational nexus and a rough proportionality between the development impacts created by each type of development covered by this Ordinance and the Impact Fees that such development will be required to pay.
- J. The Impact Fee Ordinance creates a system by which Impact Fees paid by new development will be used to finance, defray, or reimburse all or a portion of the costs incurred by the County for County Capital Facilities in ways that benefit the development that paid each Impact Fee within a reasonable period of time after the Impact Fee is paid.
- K. The Impact Fee Ordinance creates a system under which Impact Fees shall not be used to replace or rehabilitate existing Capital Facilities.
- L. The standards, assumptions, and Capital Facility Standards in the Impact Fee Study, and the terms and provisions of this Ordinance, are consistent with the Manatee County Comprehensive Plan.
- M. The Planning Commission as the County’s local planning agency held a duly noticed public hearing on November 12, 2015, to review this Ordinance, and adopted a motion finding this proposed Ordinance consistent with the Comprehensive Plan and recommending its adoption to the Board of County Commissioners.

N. The Board of County Commissioners held a duly noticed public hearing on December 3, 2015, on this Ordinance to receive public comment and review and consider the Staff Report and the report of the Planning Commission on this Ordinance.

O. The Board of County Commissioners after considering public comment, the recommendations of the Planning Commission and Planning staff, has found this Ordinance to be consistent with the Comprehensive Plan and in furtherance of the public health, safety and welfare, and has adopted this Ordinance as set forth herein.

Section 3. Amendment of Section 200 of the Land Development Code Section 200 of the Land Development Code is hereby amended to add the defined terms, or replace in their entirety the defined terms, as set forth in Exhibit “A” to this Ordinance.

Section 4. Amendment of Chapter 11 of the Land Development Code Chapter 11 of the Land Development Code is hereby amended and restated to read in its entirety as set forth in Exhibit “B” to this Ordinance.

Section 4. Applicability. The amendments set forth in Sections 3 and 4 of this Ordinance shall apply to any Impact-Generating Land Development for which a building permit application is filed on or after April 18, 2016, and for which a certificate of occupancy is issued on or after April 18, 2016.

Section 5. Codification. The publisher of the County’s Land Development Code, the Municipal Code Corporation, is directed to incorporate the amendments in Sections 3 and 4 of this Ordinance into the Land Development Code.

Section 6. Severability. If any section, sentence, clause, or other provision of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Ordinance.

Section 7. Statutory Notice Requirement. Notice of the new and amended impact fees established pursuant to this ordinance shall be provided in accordance with the requirements of the Florida Impact Fee Act on or before January 15, 2016.

Section 8. Effective Date. This Ordinance shall become effective on April 18, 2016.

[SIGNATURE PAGE FOLLOWS]

**PASSED AND DULY ADOPTED**, with a quorum present and voting, by the Board of County Commissioners of Manatee County, Florida, this the 3rd day of December, 2015.

**BOARD OF COUNTY COMMISSIONERS OF  
MANATEE COUNTY, FLORIDA**

By: \_\_\_\_\_  
**Chairman**

**ATTEST: ANGELINA COLONNESO**  
**Clerk of the Circuit Court**

By: \_\_\_\_\_  
**Deputy Clerk**

**ORDINANCE EXHIBIT “A”**  
**NEW OR RESTATED DEFINED TERMS FOR SECTION 200**

**The following terms are restated in their entirety as set forth below, in the alphabetical order in which they appear in the defined terms for “*Impact Fees*” in Section 200:**

*Accounts* shall mean any impact fee account established by the County pursuant to Chapter 11.

*Administrative Procedures* shall mean the manual adopted by the Board by resolution, to implement the provisions of this Chapter 11: Impact Fees.

*Benefit District* shall mean those Benefit Districts established pursuant to Chapter 11: Impact Fees.

*Capital Parks and Natural Resource Facilities* shall mean non-site related lands, buildings, improvements to land, and capital equipment, facilities and vehicles, used for the provision of new public parks, recreation, aquatic facilities, open space, and/or trails — and specifically including those park, open space, recreation and trail elements included in the calculation of Parks and Natural Resources Impact Fees in the Impact Fee Study.

*Capital Law Enforcement Facilities* shall mean non-site related land, buildings, improvements to land, and capital equipment, facilities and vehicles, used for new county law enforcement services — and specifically including those law enforcement facilities included in the calculation of Law Enforcement Impact Fees in the Impact Fee Study.

*Capital Library Facilities* shall mean non-site related land, buildings, improvements to land, capital equipment, and collections necessary to provide new county library services — and specifically including those library facilities and collections included in the calculation of Library Facility Impact Fees in the Impact Fee Study.

*Capital Public Facility Standards* shall mean those measures of levels of service for County Capital Facilities documented and used in the Impact Fee Study to calculate the Impact Fees.

*Capital Public Safety Facilities* shall mean non-site related lands, buildings, capital improvements to land, and capital equipment, facilities and vehicles, used for the provision of new public safety services — and specifically including those public safety facilities included in the calculation of Public Safety Impact Fees in the Impact Fee Study.

*Capital Multimodal Transportation Facilities* shall mean non-site related transportation planning, right-of-way acquisition, engineering costs, and the construction of new road and multimodal improvements to land of any project expanding the capacity of any arterial or collector shown in Map 5-B (the Future Traffic Circulation Functional Classification Map) of the Manatee County Comprehensive Plan. Capital Multimodal Transportation Facilities shall not mean routine or periodic maintenance.

*County Capital Facilities* shall mean Capital Parks and Natural Resources Facilities, Capital Multimodal Transportation Facilities, Capital Law Enforcement Facilities, Capital Public Safety Facilities, and Capital Library Facilities necessitated by new growth.

*County Impact Fee Administrator* shall mean the County Administrator or a designee, who shall be responsible for the administration of Chapter 11: Impact Fees.

*County Impact Fee Funds* shall mean the funds established by the County pursuant to Chapter 11 to ensure the Impact Fees collected are designated for the provision of infrastructure necessitated by new Impact-Generating Land Development that paid the Impact Fees. The County Impact Fee Funds include Accounts established pursuant to Chapter 11.

*Credit Authorization* shall mean the document approved by the Board, which grants impact fee credits to a person for the completion of non-site related improvements and which includes any conditions placed on the use of those credits.

*Development* shall mean any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any change in the use of land, which creates additional demand for public services.

*Development Unit* shall mean any lot, parcel, or phase in a project as depicted in a development order, and for which credit under the provisions of Chapter 11 is sought.

*Fair Market Value* shall mean the value of land or land and Capital County Facilities that is determined as part of an Offer of Credit. Fair market value shall be established by the Manatee County Property Appraiser, or through an appraisal provided by a State of Florida licensed real estate appraiser, or an appraiser who is a member of the American Institute of Real Estate Appraisers or the Society of Real Estate Appraisers, or, in cases where the value of new construction has not yet been included on the Tax Roll in force, the declared value of the improvement on a Manatee County building permit, pursuant to the Administrative Procedures.

*Feepayer* shall mean a person commencing Impact-Generating Land Development, who is obligated to pay Impact Fees in accordance with the terms of Chapter 11: Impact Fees.

*Impact Fees* shall mean the Impact Fees for each County Capital Facility, established by Chapter 11: Impact Fees.

*Impact Fee Component* shall mean each separate County Capital Facility for which Impact Fees are charged. More specifically, the following shall each constitute a separate Impact Fee Component:

- a. Capital Parks and Natural Resources Facilities;
- b. Capital Multimodal Transportation Facilities;
- c. Capital Law Enforcement Facilities;



d. Capital Public Safety Facilities; or

e. Capital Library Facilities.

*Impact Fee Multimodal Transportation System* shall mean all arterial and collector roads and multimodal improvements shown in Map 5-B (the Future Traffic Circulation Functional Classification Map) of the Manatee County Comprehensive Plan, consistent with the methodology used in the Impact Fee Study.

*Impact Fee Schedule* shall mean a fee schedule comprised of Impact Fee Components for each separate County Capital Facility provided by the County for which Impact Fees are charged.

*Impact Fee Study* shall mean the document titled “Manatee County 2015 Impact Fee Update” prepared by TischlerBise, and dated *<insert date of final study>*, that sets forth reasonable methodologies and analyses for determining the impacts of various types of development on County Capital Facilities, and for determining the cost of these County Capital Facilities necessary to meet the demands created by new development.

*Impact-Generating Land Development* shall mean either:

a. Land development designed or intended to permit a use of the land that will contain more dwelling units, lots, or floor space than the then existing use of the land, or the making of any material change in the use of any structure or land in a manner that increases demand on County Capital Facilities, unless exempted pursuant to Chapter 11. (The type of proposed Impact-Generating Land Development shall be based on the proposed use of the land.); or

b. Any “land development activity” as defined in Chapters 2 and 11 of the Manatee County Land Development Code, that is obligated to pay but has not paid impact fees.

*Improvements* shall mean capital improvements, including the planning, engineering design, permitting, construction, inspection, on-site construction, off-site construction, land, the purchase of related equipment, vehicles, and financing associated with new or expanded capital facilities, buildings, and equipment that expand the capacity of a facility or service system, but not including maintenance, operations or improvements that do not expand capacity.

*Independent Impact Analysis Study* shall mean a study prepared by a Feepayer, calculating the cost the County will incur in providing the necessary County Capital Facilities to serve the Feepayer's proposed Impact-Generating Land Development, based on the established Capital Facility standard(s).

*Non-Site Related Improvements* shall mean County Capital Facilities that are not Site-Related Improvements.

*Nursing Home* shall mean the same as outlined in Chapter 400.021 Florida Statutes, and for the purposes of nursing home impact fees shall include residential treatment facilities.

*Person* shall mean an individual, corporation, governmental agency, business trust, estate, trust, partnership, association, two (2) or more persons having a joint or common interest, or any other entity.

*Site-Related Improvements* shall mean County Capital Facilities located inside or outside the boundaries of the proposed Impact-Generating Land Development, which are designed and intended to serve only the needs of that development.

*Successor-in-Interest* shall mean a person who gains a fee simple interest in land for which Impact Fees are paid or a credit is approved pursuant to the terms of this chapter.

*Square feet (Impact Fees)* shall mean interior, occupied living areas only.

*Trip Generation Rates* shall mean both the production and attraction of traffic.

**The following terms are deleted in their entirety from the defined terms for “Impact Fees” in Section 200:**

*Access Improvements;*

*Capture and Diversion Rate;*

*Expansion of the capacity of a road;*

*Impact Fee Schedule;* and

*Law Enforcement.*

**The following terms are deleted in their entirety from the defined general terms in Section 200:**

*Manufacturing (Impact Fees);* and

*Warehouse (Impact Fees).*

**ORDINANCE EXHIBIT “B”**  
**AMENDED AND RESTATED CHAPTER 11, IMPACT FEES**

**Section 1100. Title, Authority, and Applicability.**

This chapter shall be known and may be cited as Chapter 11: Impact Fees. The Board of County Commissioners of Manatee County has the authority to adopt this chapter pursuant to Article VIII of the Florida Constitution (1968) and Chapters 125 and 163 of the Florida Statutes. This chapter shall apply uniformly throughout the unincorporated area of Manatee County.

**Section 1101. Legislative Findings, Reliance Upon the Impact Fee Study, and Intent.**

A. The Board of County Commissioners of Manatee County hereby finds that the document titled “Manatee County 2015 Impact Fee Update” prepared by TischlerBise, and dated *<insert date of final study>*, is based upon the most recent and localized data and relies upon said document in the adoption of this chapter.

B. This chapter is intended to implement and be consistent with the Manatee County Comprehensive Plan and is intended to be consistent with Section 163.31801, Florida Statutes (the “Florida Impact Fee Act”).

C. It is the further intent of this chapter that new development pay for its fair share of the cost of County Capital Facilities required to accommodate new development through the imposition of Impact Fees that will be used to finance, defray or reimburse all or a portion of the costs incurred by the County to construct or acquire Improvements for County Capital Facilities to accommodate that new development.

D. It is also the intent of this chapter to be consistent with the principles for allocating a fair share of the cost of new County Capital Facilities to new users as established by the Florida Supreme Court and the District Courts of Appeal of Florida in the case of Contractors and Builders Association of Pinellas County v. City of Dunedin, 329 So.2d 314 (Fla., 1976), and other cases. This is accomplished by ensuring new development bears a proportionate share of the cost for Improvements to these County Capital Facilities; ensuring such proportionate share does not exceed the cost incurred by the County for Improvements for such County Capital Facilities to accommodate new development; and ensuring that new development receives sufficient benefit from the funds collected in the form of Improvements for such County Capital Facilities.

E. It is further the intent of this chapter to establish a system for the efficient and coordinated administration of Impact Fees authorized by this chapter, including the consistent administration of payments, expenditures, appeals, credits, refunds and reviews of independent impact analysis.

F. It is not the intent of this chapter to collect any Impact Fees from any new development in excess of the actual amount necessary to offset new demands for County Capital Facilities.

G. It is not the intent of this chapter that any monies collected from any Impact Fees deposited in an Impact Fee Account ever be commingled with monies from a different Impact Fee

Account, or ever be used for a type of County Capital Facility or equipment different from that for which the Fees are paid, or ever be used to replace or rehabilitate existing Improvements for County Capital Facilities.

H. The "whereas clauses" and findings set forth in Ordinance No. 15-43 are hereby adopted as legislative findings.

## **Section 1102. Impact Fees to be Imposed.**

### **1102.1. Fee Obligation.**

**A. Obligation.** Any person who commences any Impact-Generating Land Development, except those exempted pursuant to Section 1102.2, shall be obligated to pay Impact Fees as required by this chapter. The person commencing the Impact-Generating Land Development or such person's Successor-in-Interest shall be obligated to pay the Impact Fees. The amount of the Fees shall be determined in accordance with Section 1102.3.

### **B. Fees Levied.**

The Board hereby imposes Impact Fees at the rates established pursuant to Section 1102.3.A (Fee Schedule) for all Impact-Generating Land Development.

**C. Time Fees Paid.** The Impact Fees shall be paid to the County Impact Fee Administrator:

1. At time of issuance of a Building Permit for additions/renovations, and manufactured home replacements (should there be an increase in impacts on County Capital Facilities based on the Fee Schedule in Section 1102.3.A);
2. Prior to Final Plan Approval or its functional equivalent where no Building Permit is required (e.g., "AP," "FSP," etc.);
3. Prior to installation of the required improvements release by the Department Director for recreational vehicle parks;
4. Prior to issuance of a Certificate of Occupancy or Certificate of Completion (as the case may be), for all other development and for an Independent Impact Analysis (Section 1102.3.E); or
5. At an earlier stage of development if required by a condition of a planned development approval or pursuant to either a Pre-Payment of Impact Fees (Section 1102.1.G) or a Fee Agreement (Section 1102.1.H).

**D. Extension of Previous Permit.** If the Feepayer applies for an extension of a previously-applied-for Building Permit and Impact Fees have not been paid prior to the time the extension is requested, the Impact Fees due for the development subject to the extension shall be the Impact Fees in effect at the time the extension is requested.

**E. Change of Use.** If the Feepayer is applying for a permit to allow a change of use or for the expansion, redevelopment, or modification of an existing development, the Impact Fees required to be paid shall be based on the net increase in the Impact Fees for the new use as compared to the previous use.

**F. Destruction or Redevelopment.** If the Feepayer is applying for a permit to allow the development or redevelopment of an existing use, which does not involve a change in use, the Impact Fees required to be paid shall be based on the net increase in the unit of measurement between the existing and new development, such as square feet for certain residential and nonresidential development, and rooms for hotel/lodging, based on the Fee Schedule in Section 1102.3.A.

**G. Pre-Payment of Impact Fees.**

1. Any Feepayer may pay Impact Fees for a Component or all Components of an entire Impact-Generating Land Development at any time between the approval of a Final Development Order and issuance of the first Building Permit for the development, upon approval of the Board and pursuant to a Fee Agreement, pursuant to this section 1102.1.G and section 1102.1.H.

2. A Fee Agreement providing for pre-payment may include a provision that exempts the Feepayer from subsequent increases in Impact Fees to any Impact Fee Component for which all Fees have been paid pursuant to this subsection. A Feepayer shall be obligated to pay any and all Impact Fees in place at the time Impact Fees are due and owing for Components not pre-paid pursuant to this section, including any new Impact Fee Components adopted.

**H. Fee Agreement.** Prior to issuance of a Certificate of Occupancy or Certificate of Completion (as the case may be), the owner of the Impact-Generating Land Development may, subject to the approval of the Board, enter into a Fee Agreement providing for payment of Impact Fees at a time to be specified in the Fee Agreement. In no event shall the terms of the Fee Agreement provide for the payment of Impact Fees later than issuance of a Certificate of Occupancy or Certificate of Completion (as the case may be).

**1102.2. Exemptions.**

The following types of development shall be exempted from payment of Impact Fees. Any claim for exemption shall be made no later than the time when the applicant applies for the first Building Permit for the proposed Impact-Generating Land Development that creates the obligation to pay the Impact Fees, and any claim for exemption not made at or before that time is waived. The exemption shall be determined by the County Impact Fee Administrator.

A. Reconstruction, expansion, or replacement of a previously existing residential unit that does not increase the number of Dwelling Units;

B. The replacement of a destroyed or partially destroyed non-residential building or structure with a new non-residential building or structure of the same use as the original structure, where there is no increase in square feet;

- C. Construction of unoccupied accessory structures related to a residential unit;
- D. Impact-Generating Land Development for which Impact Fees for each type of County Capital Facility covered by this chapter have previously been paid in an amount that equals or exceeds the Impact Fees that would be required by this chapter;
- E. Impact-Generating Land Development undertaken by a Federal, State, County or Municipal government or a fire district;
- F. Impact-Generating Land Development undertaken by a public school board or community college; and
- G. Impact-Generating Land Development undertaken by the Manatee County Port Authority within PDPM (Planned Development Port Manatee) provided in Section 402.18 of the Manatee County Land Development Code where the structures are owned by the Manatee County Port Authority. This exemption shall not include Impact-Generating Land Development undertaken within PDPM (Planned Development Port Manatee) where structures are owned by a person other than the Manatee County Port Authority, in which event the structure itself and any land leased by the Manatee County Port Authority to that person shall be subject to the requirements of this chapter.

### **1102.3. Calculation of Amount of Impact Fees.**

The amount of Impact Fees due shall be determined pursuant to the provisions of this subsection by the County Impact Fee Administrator at or prior to the time payment is due pursuant to Section 1102.1.C.

**A. Fee Schedule.** Any person who commences any Impact-Generating Land Development, except those exempted pursuant to Section 1102.2 (Exemptions), or those preparing an Independent Impact Analysis pursuant to Section 1102.3.E (Independent Impact Analysis), shall pay all Impact Fees applicable to the proposed Impact-Generating Land Development, as determined by the Impact Fee Schedule included in this chapter as Exhibit 11-1: Impact Fee Schedule, and incorporated herein by reference.

1. During the time period commencing on April 18, 2016 and ending on April 17, 2017, the impact fee shall be eighty percent (80%) of the amount set forth in the above schedule.
2. During the time period commencing on April 18, 2017 and ending on April 17, 2018, the impact fee shall be ninety percent (90%) of the amount set forth in the above schedule.
3. During the time period commencing on April 18, 2018 and continuing thereafter, the impact fee shall be one hundred percent (100%) of the amount set forth in the above schedule.

The County Impact Fee Administrator shall make a determination as to the appropriate land use designation listed in the Impact Fee Schedule, based upon the nature and intent of a proposed use

and any mitigation measures that have been put in place to reduce the impact of such use. Such determination may be appealed to the Board upon payment of a nonrefundable processing fee.

**B. Uses Not Listed.** If the Impact-Generating Land Development is of a type not listed in Exhibit 11-1: Impact Fee Schedule, then the County Impact Fee Administrator shall be responsible for determining whether the use is comparable to another type of land use listed in Exhibit 11-1: Impact Fee Schedule. If the County Impact Fee Administrator determines the use is comparable to another type of land use listed in Exhibit 11-1: Impact Fee Schedule, the Impact Fees due to be paid for the use shall be the same as for the comparable use. If there is no comparable use, the Impact Fees shall be determined by an Independent Impact Analysis pursuant to Section 1102.3.E.

**C. Mix of Uses.** If the Impact-Generating Land Development includes a mix of those uses listed in Exhibit 11-1: Impact Fee Schedule, then the Impact Fees shall be determined by adding up the Impact Fees that would be payable for each use as if it were a freestanding use pursuant to Exhibit 11-1.

**D. Computation.** The Impact Fees for any Impact-Generating Land Development shall be computed on the basis of the maximum impact of proposed use for the land permitted under applicable laws, ordinances, regulations and permits, except where development is restricted by a Fee Agreement (Section 1102.1.H). If the Impact-Generating Land Development includes fractional units, the Fees shall be computed to the appropriate fraction.

**E. Independent Impact Analysis.**

1. *Request by Feepayer.* In lieu of calculating the amount(s) of Impact Fees by reference to Exhibit 11-1: Impact Fee Schedule, a Feepayer may submit an application to request the amount of the required Impact Fees be determined by reference to an Independent Impact Analysis for the proposed Impact-Generating Land Development. Such application must contain the information outlined in this Section 1102.3.E and must be accompanied by the appropriate Independent Impact Analysis. The burden shall be on the Feepayer requesting the Independent Impact Analysis to demonstrate by competent substantial evidence that the data, assumptions, and service units used in the Impact Fee Study and reflected in Exhibit 11-1: Impact Fee Schedule are less accurate than the results of the Independent Impact Analysis.

2. *Request by County Impact Fee Administrator.* In lieu of accepting a payment of Impact Fees based on Exhibit 11-1: Impact Fee Schedule, the Feepayer shall be required to perform an Independent Impact Analysis if the type of Impact-Generating Land Development is not within one of those categories or comparable to a category listed in Exhibit 11-1: Impact Fee Schedule; or may be required to perform an Independent Impact Analysis if the development requires a rezone, site plan or subdivision approval, and the County Impact Fee Administrator determines that due to the nature, timing or location of the proposed Impact-Generating Land Development, it will generate substantially more impacts on County Capital Facilities than those determined in Exhibit 11-1. If the Feepayer is required pursuant to this subsection to perform an Independent Impact Analysis, the County shall be responsible for retaining a qualified professional to prepare the Independent Impact Analysis consistent with the requirements of this chapter, at the

Feepayer's expense, but the expenses of preparing the Independent Impact Analysis shall be deducted from the Impact Fees due from the Feepayer for the Impact Fee Component which the Independent Impact Analysis is prepared pursuant to this subsection. The County Impact Fee Administrator may also choose to perform the Independent Impact Analysis using County staff and current engineering data.

3. *Qualifications of Preparer.* Unless the County Impact Fee Administrator chooses to perform an Independent Impact Analysis using County staff, each Independent Impact Analysis shall be prepared and certified by an expert approved by the County Impact Fee Administrator as satisfying the criteria for training and experience established by the Administrative Procedures.

4. *Requirements for Independent Impact Analysis.* An Independent Impact Analysis shall be based on the most recent and localized data, shall be based on the same Capital Public Facility Standards and unit costs for Improvements for County Capital Facilities used in the Impact Fee Study, and shall document the relevant methodologies and assumptions used. Each Independent Impact Analysis shall comply with the following requirements:

a. *Multimodal Transportation Impact Fee.* In the case of the Multimodal Transportation Impact Fee, the Independent Impact Analysis shall use the formulas used in the Impact Fee Study to determine travel demand and the amount of Impact Fees, but may attempt to demonstrate that alternate trip generation rates, by development type, alternate trip rate adjustment, and/or alternate trip length adjustment more accurately reflect the transportation impacts of the proposed Impact-Generating Land Development. Support shall be provided through local data and/or surveys.

b. *Other Impact Fees.* In the case of each of the other Impact Fee Components, the Independent Impact Analysis shall use the formulas used in the Impact Fee Study for the appropriate component, but may attempt to demonstrate that the number of service units per development unit vary from the rates used in the Impact Fee Study.

5. *Completeness.* When done pursuant to a Feepayer request, the County Impact Fee Administrator shall review the Independent Impact Analysis and the Feepayer's application for completeness. If additional material is required for effective review of the Independent Impact Analysis, the County Impact Fee Administrator shall notify the applicant of the need for such additional material within ten (10) days after receipt of the application. Applicant shall provide the requested additional materials within thirty (30) days of receipt of notice from the County Impact Fee Administrator, or the application shall be considered withdrawn.

6. *Decision by the County Impact Fee Administrator.* Within thirty (30) days after a determination that the application and accompanying analysis are complete, the County Impact Fee Administrator shall render a written decision accepting, accepting with modifications, or rejecting the Independent Impact Analysis as the basis for calculating Impact Fees due from the proposed Impact-Generating Land Development. The Independent Impact Analysis shall be accepted, accepted with modifications, or rejected based on the review standards in Section 1102.3.E.7 (Standards). The decision of the County Administrator or designee shall be in writing. If an Independent Impact Analysis is accepted or accepted with modifications, then the



Impact Fees due under this chapter shall be calculated according to the Independent Impact Analysis.

7. *Standards.* The standards for acceptance, acceptance with modifications, or rejection of the Independent Impact Analysis shall be whether the applicant and the Independent Impact Analysis have complied with all requirements of Section 1102.3.E.4 (Requirements for Independent Impact Analysis), and if so, whether the resulting Independent Impact Analysis demonstrates, by competent substantial evidence, that an alternative Impact Fee amount more accurately reflects the demands for the relevant County Capital Facilities than the applicable Fees shown in Exhibit 11-1: Fee Schedule.

### **Section 1103. Use of Impact Fee Funds.**

#### **1103.1. County Impact Fee Funds and Accounts.**

**A. Establishment of County Impact Fee Funds.** County Impact Fee Funds are hereby established for the purpose of ensuring the Impact Fees collected pursuant to this chapter are designated for the provision of infrastructure necessitated by new Impact-Generating Land Development that paid the Impact Fees. One (1) County Impact Fee Fund shall be established for each Impact Fee Component. These Funds shall be maintained as interest bearing accounts.

**B. Establishment of Separate Accounts Within Funds.** For those Impact Fee Components that have more than one Benefit District, separate Accounts, as determined by the Clerk of the Court, shall be established for each such Benefit District. For those Impact Fee Components that have a single Benefit District, the County Impact Fee Fund established for each such Impact Fee Component shall be treated as a separate Account, as determined by the Clerk of the Court.

**C. Deposit and Management of the County Impact Fee Accounts.** All Impact Fees collected by the County Impact Fee Administrator pursuant to this chapter shall be identified as Impact Fees and shall be promptly deposited into the appropriate Account in the County Impact Fee Funds.

**D. Interest Earned on Fees.** Interest earned on Impact Fee proceeds in any Account in any of the County Impact Fee Funds shall be considered part of such Account, and shall be subject to the same restrictions on use applicable to the Impact Fees deposited in such Account.

**E. Accounting and Reporting of Collections and Expenditures.** The County shall account for the collections and expenditures of all Impact Fees in accordance with applicable law (including, without limitation, Section 163.31801(3)(b), Florida Statutes) and generally accepted governmental accounting practices.

#### **1103.2. Limitations on Expenditures of Fees in Accounts.**

The monies collected for each Impact Fee Component shall be used only (1) for the same category of County Capital Facilities, or (2) to pay debt service on any portion of any future general obligation bond issue or revenue bond issue or similar instrument used to finance the

acquisition or construction of that category of County Capital Facilities, or (3) to reimburse the County for such costs. The costs of County Capital Facilities also include the costs of related planning for the provision of such facilities.

### **1103.3. Money Spent on First-In/First-Out Basis.**

Monies in each Account shall be considered to be spent in the order collected, on a first-in/first-out basis.

## **Section 1104. Benefit Districts.**

For the purpose of ensuring Feepayers receive sufficient benefit for Impact Fees paid, the following benefit districts are established for each Impact Fee Component.

### **1104.1. Parks and Natural Resources Benefit District.**

The Parks and Natural Resources Benefit District shall include the entirety of unincorporated Manatee County. Parks and Natural Resource Impact Fees shall be expended within the Parks and Natural Resources Benefit District.

### **1104.2. Multimodal Transportation Benefit Districts.**

Four (4) Multimodal Transportation Benefit Districts are established: (1) the Northwest Multimodal Transportation Benefit District, (2) the Northeast Multimodal Transportation Benefit District, (3) the Southwest Multimodal Transportation Benefit District, and (4) the Southeast Multimodal Transportation Benefit District. The boundaries of all four (4) Multimodal Transportation Benefit Districts are shown on Exhibit 11-2: Multimodal Transportation Benefit Districts, which is incorporated herein by reference.

**A. Within Benefit District.** Multimodal Transportation Impact Fees shall be expended within the Multimodal Transportation Benefit District from which the Fees have been collected, except as authorized pursuant to Section 1104.2.B.

**B. Outside Benefit District.** Multimodal Transportation Impact Fees may be spent on improvements located outside the Benefit District in which the Impact-Generating Land Developments that paid the Impact Fees are located if the Board first makes a written determination that such expenditure will sufficiently benefit the Impact-Generating Land Developments located within the Multimodal Transportation Benefit District and that such expenditure will comply with the requirements of applicable law.

### **1104.3. Law Enforcement Benefit District.**

The Law Enforcement Benefit District shall include the entirety of unincorporated Manatee County. Law Enforcement Impact Fees shall be expended within the Law Enforcement Benefit District.

**1104.4. Public Safety Benefit District.**

The Public Safety Benefit District shall include the entirety of unincorporated Manatee County. Public Safety Impact Fees shall be expended within the Public Safety Benefit District.

**1104.5. Library Facilities Benefit District.**

The Library Facilities Benefit District shall include the entirety of unincorporated Manatee County. Library Facilities Impact Fees shall be expended within the Library Facilities Benefit District.

**1104.6. Administration.**

The County Department of Financial Management shall be responsible for ensuring that Impact Fees authorized and collected pursuant to this chapter are expended only in accordance with the provisions of this Section 1104.

**Section 1105. Refunds of Impact Fees Paid.**

**1105.1. Timeliness of Impact Fee Commitments and Expenditures.**

**A. Encumbrance of expenditure within seven (7) years.** Any Impact Fees collected that have not been spent or encumbered within seven (7) years after the date on which the Fees are paid shall be eligible to be refunded to the Feepayer or the Feepayer's Successor-in-Interest, along with interest at the rate of two (2) percent per annum since the date of payment, except as otherwise noted in this section.

**B. Extension of time.** The Board may by resolution extend for up to three (3) years the date at which Impact Fees shall be refunded. Such an extension shall be made only upon a finding that within such three (3) year period, specific Improvements for County Capital Facilities are planned and will be constructed that will sufficiently benefit the Impact-Generating Land Development for which the Impact Fees were paid. In the case of such an extension, any Impact Fees collected that have not been spent or encumbered within such extension period shall be refunded to the Feepayer or the Feepayer's Successor-in-Interest, along with interest at the rate of two (2) percent per annum since the date of payment.

**C. Refund.** In order to be eligible to receive a refund of Impact Fees, the Feepayer or the Feepayer's Successor-in-Interest shall be required to submit an application for such refund to the County Impact Fee Administrator. Refunds for proceeds not timely expended shall be made by the County Impact Fee Administrator within one (1) year following the end of the calendar quarter immediately following the seventh year from the date on which the last Certificate of Occupancy was issued for the Impact-Generating Land Development or the expiration date of the extension, whichever is later. If the Feepayer or the Feepayer's Successor-in-Interest does not make application for a refund, the funds shall remain in the impact fee account until spent.

**D. Successors-in-Interest.** If the Successor-in-Interest claims a refund of Impact Fees, the County Impact Fee Administrator may require written documentation that such rights have been conveyed to the claimant prior to issuing the requested refund.

**E. Payment and Interest.** The County Impact Fee Administrator shall approve the refund application if it is determined that the Feepayer or the Feepayer's Successor-in-Interest has paid Impact Fees the County has not spent within the period of time permitted under this section. The refund shall include the Impact Fees paid plus interest at the rate of two (2) percent per annum, less any applicable administrative fees adopted pursuant to Section 1108.5 (Administrative Fee).

#### **1105.2. Failure to Initiate Development.**

If a Feepayer has paid Impact Fees required by this chapter and has obtained a Building Permit, and the Building Permit for which the Fee was paid later expires without the possibility of further extension, then the Feepayer or the Feepayer's Successor-in-Interest shall be entitled to a refund of the Fees paid, without interest, and less any applicable administrative fees adopted pursuant to Section 1108.5 (Administrative Fee). In order to be eligible to receive a refund of Impact Fees, the Feepayer or the Feepayer's Successor-in-Interest shall be required to submit an application for such refund to the County Impact Fee Administrator within thirty (30) days after the expiration of the Building Permit for which the Fee was paid. If a Successor-in-Interest claims a refund of Impact Fees, the County Impact Fee Administrator may require written documentation that such rights have been conveyed to the claimant prior to issuing the requested refund.

#### **1105.3. Limitation.**

After Impact Fees have been paid pursuant to this chapter, no refund of any part of the Fees shall be made if the Impact-Generating Land Development for which the Fees were paid is later demolished, destroyed, or is altered, reconstructed or reconfigured so as to reduce the size of the development or the number of units in the development.

### **Section 1106. Credits Against Impact Fees.**

#### **1106.1. Improvements Eligible for Credits.**

Any person who shall commence any Impact-Generating Land Development may apply for a credit against the appropriate Component of the Impact Fees for Capital Parks and Natural Resources Facilities, Capital Multimodal Transportation Facilities, Capital Law Enforcement Facilities, Capital Library Facilities, or Capital Public Safety Facilities proposed to be paid pursuant to the provisions of this chapter for any contribution, construction, or dedication of land accepted and received by the County for any Non-Site Related Improvements, including any contribution, payment, construction, or dedication of land made pursuant to a development order issued by the County pursuant to local land development regulations, Section 380.06, Florida Statutes, or any additional requirement imposed by the Florida Land and Water Adjudicatory Commission on a development of regional impact.

#### **1106.2. General Standards.**

All awards of Impact Fee credits shall be subject to the following requirements:

**A. Credit.** Impact Fee credits shall be directly attributable to and approved for the person who made a contribution, payment, construction or land dedication that conforms to the requirements of this section or to such person's Successor-in-Interest.

**B. Options for Use of Credits.** Impact Fee credits may be utilized consistent with one (1) of the three (3) following options:

1. Impact Fee credits may be used to offset Impact Fees due and owing for an applicable Impact Fee Component of the development project for which contribution, construction, or dedication of land for County Capital Facilities is made and credit accepted pursuant to this section. Credits utilized pursuant to this subsection may only be applied against Building Permits issued subsequent to the time the application for the offer of credit is submitted.

2. Credit may be used in the form of a refund of Impact Fee funds to the developer/owner in the amount of the credit accepted for the contribution, construction, or dedication of land for County Capital Facilities, if Impact Fees have been paid for Building Permits issued for the development project for which the contribution, construction, or dedication of land is made for which the credit is accepted. Refunds for credits pursuant to this subsection may be requested only by the developer/owner who made the contribution, payment, construction or land dedication for which credit is accepted. The right to receive refunds for credits pursuant to this subsection is not transferable. In no case shall the refund be greater than the amount of Impact Fees paid for the applicable Impact Fee Component. Further, the total amount which may be refunded for a development project shall not exceed the total amount of Impact Fees due to Manatee County for the applicable Impact Fee Component of the development project less any credit applied against the Impact Fees due and owing (Section 1106.2.B.1). If credits are refunded pursuant to this subsection, the Credit Authorization shall be amended to reduce the amount of credit that can be applied against Impact Fees due and owing.

3. Subject to approval by the Board of County Commissioners, Impact Fee credits may be assigned to any entity and used by the assignee to offset Impact Fees due and owing for an applicable Impact Fee Component of any development project located in the same Benefit District as the development project for which the contribution, construction of improvements, or dedication of land for County Capital Facilities was made and for which the credit was accepted pursuant to this Section 1106.

4. Subject to the limitations set forth in this subsection, and pursuant to Section 163.3180, Florida Statutes, Impact Fee credits may be used to pay, in part, proportionate share contributions for local and regionally significant traffic impacts, to satisfy the transportation concurrency requirements of the Manatee County Comprehensive Plan for developments of regional impact. Such use of Impact Fee credits shall be subject to the approval by the County of a Land Development Agreement acceptable to the County in its contractual and fiscal discretion. Such Land Development Agreement may include provisions addressing, among other things: (1) the identification of one or more mobility improvements to benefit a regionally significant transportation facility to be fully funded and completed by or on behalf of the applicant, the

County, and/or another governmental or quasi-governmental entity; (2) an agreed-upon discounting of the Impact Fee credits to reflect their true present value; and (3) a contribution of land, construction and/or cash payment toward such project or projects, in addition to the use of Impact Fee credits, to at least equal to the applicant's required proportionate-share contribution, taking into consideration the present-value discounting of such Impact Fee credits.

**C. Transferability.** Credits shall not be transferable from one Impact Fee Component to another Component. Credits for each individual Component shall be transferable among development units under the same ownership and within the same Benefit District at the time the Credit Authorization is approved.

**D. Assignment.** A portion or all of a credit approved pursuant to a Credit Authorization may be assigned and reassigned for use pursuant to Section 1106.2.B.3 under terms and conditions acceptable to the County. Such assignment shall be memorialized in an amendment to the Credit Authorization and approved by the Board of County Commissioners.

**E. Limitation.** No credit shall exceed the amount due for the applicable Impact Fee Component against which it is to be credited, except to the extent that Impact Fee credits are to be transferred pursuant to Section 1106.2.C or assigned pursuant to Section 1106.2.D.

#### **1106.3. Parks and Natural Resources Credits.**

For any Parks and Natural Resources Impact Fee proposed to be paid, a credit of up to one hundred (100) percent of the Parks and Natural Resources Impact Fees shall be provided for any off-site or on-site contribution, payment, construction or dedication of land for a Capital Parks and Natural Resources Facility used in the calculation of the Parks and Natural Resources Impact Fee that is intended for the use of the general public and accepted for that purpose by the County. The credit shall be valued at one hundred (100) percent of the fair market value of the contribution, payment, construction of improvements, or dedication of land.

#### **1106.4. Multimodal Transportation Credits.**

For any Multimodal Transportation Impact Fees proposed to be paid, a credit of up to one hundred (100) percent of the Multimodal Transportation Impact Fees shall be provided for any contribution, payment, construction or dedication of land for right-of-way (ROW) for Non-Site Related improvements that expand the capacity of the Impact Fee Multimodal Transportation System. The credit shall be valued at one hundred (100) percent of the fair market value of the contribution, payment, construction of improvements, or dedication of land.

#### **1106.5. Law Enforcement Credits.**

For any Law Enforcement Impact Fee proposed to be paid, a credit of up to one hundred (100) percent of the Law Enforcement Impact Fee shall be provided for any off-site or on-site contribution, payment, construction or dedication of land for any Capital Law Enforcement Facilities used in the calculation of the Law Enforcement Impact Fee. The credit shall be valued

at one hundred (100) percent of the fair market value of the contribution, payment, construction of improvements, or dedication of land.

**1106.6. Public Safety Credits.**

For any Public Safety Impact Fee proposed to be paid, a credit of up to one hundred (100) percent of the Public Safety Impact Fee shall be provided for any off-site or on-site contribution, payment, construction, or dedication of land for any Capital Public Safety Facilities used in the calculation of the Public Safety Impact Fee. The credit shall be valued at one hundred (100) percent fair market value of the contribution, payment, construction of improvements, or dedication of land.

**1106.7. Library Credits.**

For any Library Impact Fee proposed to be paid, a credit of up to one hundred (100) percent of the Library Impact Fee shall be provided for any off-site or on-site contribution, payment, construction, or dedication of land for any Capital Library Facilities used in the calculation of the Library Impact Fee. The credit shall be valued at one hundred (100) percent fair market value of the contribution, payment, construction of improvements, or dedication of land.

**1106.8. Procedure for Offer of Credits.**

**A. Application.** Any person eligible to receive Impact Fee credits pursuant to Section 1106.1 may submit a written application to the County Impact Fee Administrator. The amount of credits requested (stated as either a final valuation or, if construction has not been completed at the time of application, an estimate of the valuation) shall be included in the application, and the appropriate documentation supporting the valuation or estimate shall accompany the application.

**B. Completeness Review.** Within thirty (30) days of receipt of the written application, the County Impact Fee Administrator shall determine if it is complete, and if the application is found to be incomplete, the County Impact Fee Administrator shall mail written notification to the applicant at the address listed in the application setting forth the deficiencies and requiring the applicant submit the necessary information. The applicant shall submit the requested information or shall request additional time for submission within thirty (30) days of receipt of the notice. The County Impact Fee Administrator may grant an extension of the time for applicant submission. If an applicant does not submit the information requested or request an extension within such thirty (30) days the application shall be considered withdrawn. The County Impact Fee Administrator shall not process the application until the County Impact Fee Administrator determines that the application is complete.

**C. Substantive Review and Staff Recommendation.** Within thirty (30) days of the date the application for an offer of credit is determined complete, it shall be reviewed by the County Impact Fee Administrator to determine whether it meets the standards of Section 1106.8.D (Standards), whether it should be accepted, and if so, the amount of credit. The results of the review shall be presented to the Board by the County Impact Fee Administrator along with the Administrator's recommendation for either approval or denial.

**D. Standards.** The standard to be applied in making a decision to accept, accept with modifications, or reject an offer for credit shall be whether the offer complies with all applicable requirements of this Section 1106 (Credits Against Impact Fees), and if so, whether the offer of credit will result in a reduction of the costs to the County of constructing an Impact Fee Component of County Capital Facilities, by an amount at least equal to the value of the offer of credit.

**E. Board Approval and Credit Authorization.** The Board shall review all applications for offers of credit on a case- by-case basis and shall approve or deny each application. In its review, the Board may consider any information it deems relevant including, without limitation, the standards set forth in Section 1106.8.D. For all applications receiving Board approval, the County shall issue a Credit Authorization identifying the contribution, construction or dedication of land for which credit is provided, its fair market value, the amount of the approved credit, how credit is to be provided, and any other relevant terms and conditions of the credit. All material terms of the Credit Authorization must be approved by the Board. Failure to approve an application may necessitate that the County provide the applicant with an alternative form of compensation for the contribution, construction of improvements, or dedication of land for which the credits were applied.

**F. Withdrawal.** The applicant may withdraw the application for an offer of credit at any time prior to the acceptance of an offer of credit by the County Impact Fee Administrator, by submitting written notice to the County Impact Fee Administrator stating an intent to withdraw.

**G. Time of Credit and Valuation.**

1. *Land Dedications.* Where land is being dedicated, the Fee payer shall deposit with the County a pro-rated amount of property taxes based on the prior year's ad valorem tax. Approved credits for land dedications shall become effective when the land has been conveyed to the County in a form acceptable to the County at no cost to the County, and has been accepted by the Board. When such conditions have been met, the County Impact Fee Administrator shall note that fact in the County's records. The Credit Authorization shall state the amount of credit available.

2. *Improvements.* Approved credits for acquisition or construction of Improvements shall become effective when (a) all required construction has been completed and has been accepted by the County, (b) a suitable maintenance and warranty bond has been received and approved by the County, and (c) all design, construction, inspection, testing, bonding and acceptance procedures have been completed in compliance with all applicable requirements of the County (and the State of Florida, if applicable).

3. *Valuation.* The value of any contribution, construction of improvements, or dedication of land for County Capital Facilities for which credit is sought or has been approved shall be calculated as of the earliest point in the development approval process when the need for the contribution, construction of improvements, or dedication of land was identified and made a condition of approval.



## **Section 1107. Appeals.**

### **1107.1. General.**

A Feepayer may appeal a decision of the County Impact Fee Administrator to the Board on a request for an Independent Impact Analysis (Section 1102.3.E), a Refund (Section 1105), or an offer of credit (Section 1106), by filing an appeal, in writing, with the County Impact Fee Administrator, within sixty (60) calendar days of the decision. The appeal shall include a written notice stating in detail the grounds of the appeal. The County Impact Fee Administrator shall place the appeal on the Board's agenda for a regularly scheduled meeting or a special meeting called for that purpose, and forward the record of the matter that is on appeal to the Board.

### **1107.2. Record.**

The record considered by the Board shall be the record of the application for Independent Impact Analysis, the offer of credit, or the request for Refund (as the case may be).

### **1107.3. Notice.**

The County Impact Fee Administrator shall notify the applicant by mail or hand delivery at least 15 calendar days prior to the Board's hearing on the appeal.

### **1107.4. Hearing on Appeal.**

At the hearing on the appeal, the Board shall provide the appellant an opportunity to identify the grounds for the appeal and the basis for the County Impact Fee Administrator's error on the decision, based on the record. The County Impact Fee Administrator or a representative, other County staff involved in the decision, and the appellant shall be allowed to respond, based on the record. After the presentations, the Board may hear from any other person(s) it deems appropriate, and then based on the testimony heard at the hearing and the record, the Board shall affirm, modify or reverse the decision of the County Impact Fee Administrator based on the standards in Section 1107.5 (Standards).

### **1107.5. Standards.**

To reverse a decision of the County Impact Fee Administrator, the Board shall find that there is a clear and demonstrable error in the application of the facts in the record to the standards for review of an Independent Impact Analysis (Section 1102.3.E), Refund (Section 1105), or offer of credit (Section 1106) (as the case may be). If the Board reverses or modifies the decision, it shall provide the County Impact Fee Administrator clear direction on the proper decision. In no case shall the Board have the authority to negotiate the amount of the Impact Fees or waive the Fees. The decision of the Board shall be final.

### **1107.6. Form of Decision.**

The Board's decision on the appeal shall be in writing and shall include findings of fact and the application of those facts to the relevant standards.

#### **Section 1108. Miscellaneous Provisions.**

##### **1108.1. No Expenditure for Routine Maintenance, Rehabilitation or Replacement.**

No monies from the County Impact Fee Funds shall be spent for periodic or routine maintenance, rehabilitation or replacement of any facility of any type.

##### **1108.2. Construction of Site-Related Improvements.**

Nothing in this chapter shall restrict the County from requiring an applicant for an Application for Development Approval to construct Site-Related Improvements, or other reasonable project improvements required to serve the applicant's project, whether or not such improvements are of a type for which credits would otherwise be available under Section 1106. Such Site-Related Improvements shall not be eligible for credits pursuant to Section 1106.

##### **1108.3. Capital Improvements Program.**

At least once during each fiscal year of the County, the County Administrator or a designee shall present to the Board a proposed capital improvements program for the Capital Parks and Natural Resources Facilities, Capital Multimodal Transportation Facilities, Capital Law Enforcement Facilities, Capital Library Facilities, and Capital Public Safety Facilities, including related equipment and vehicles, and such capital improvements program shall assign monies from each County Impact Fee Fund and Account to specific projects and related expenses for the type of facilities or services for which the Fees in that Account were paid. The Board shall accept, modify or reject the proposed capital improvements program of the County Administrator or a designee, and direct monies from the County Impact Fee Fund Accounts spent consistent with the approved capital improvement program for that year. Any monies, including any accrued interest, not assigned to specific projects within such capital improvements program, or not expended pursuant to Section 1103 for those County Capital Facilities not eligible for inclusion in such capital improvements program, shall be retained in the same Account until the next fiscal year.

##### **1108.4. Administrative Procedures.**

The Board may adopt by resolution Administrative Procedures to implement this chapter.

##### **1108.5. Administrative Fee.**

The Board may adopt a resolution providing for administrative fees to be retained by the County as payment for the expenses of collecting the fees and administering this chapter. In no case shall the administrative fees adopted by the Board exceed the actual costs to the County of paying such expenses.

#### **1108.6. Mistake or Misrepresentation.**

If Impact Fees are calculated and paid based on a mistake or misrepresentation, they shall be recalculated. Any amounts overpaid by a Feepayer shall be refunded by the County within thirty (30) days after the County Impact Fee Administrator's acceptance of the recalculated amount, with interest at the rate of two (2) percent per annum since the date of such overpayment. Any amounts underpaid by the Feepayer shall be paid to the County (Clerk of the Circuit Court) within thirty (30) days after the County Impact Fee Administrator's acceptance of the recalculated amount, with interest at the rate of two (2) percent per annum since the date of such underpayment. In the case of an underpayment to the County, after discovery of the error the County shall not issue any additional permits or approvals for the project for which the Impact Fees were previously paid until such underpayment is corrected, and if amounts owed to the County are not paid within sixty (60) days, the County may also repeal any permits issued in reliance on the previous payment of such Impact Fees and refund such Fees to the then current owner of the land.

#### **1108.7. Affordable Housing.**

Manatee County may pay a portion of any Impact Fees charged pursuant to this chapter against any Impact-Generating Land Development that has entered into a Land Use Restriction Agreement ensuring that the Impact-Generating Land Development meets those standards established by Manatee County for an affordable housing project. When an existing affordable housing unit is demolished, the property owner may transfer available Impact Fee credits from the unit for use for affordable housing development as a method for meeting requirements for mitigation related to the loss of the affordable housing unit. Such Impact Fee credits must be used in the Benefit District in which the affordable housing unit that was demolished was located.

#### **1108.8. Five-Year Review.**

At least once every five (5) years, the County Impact Fee Administrator, after consultation with all other appropriate providers of County Capital Facilities, shall recommend to the Board whether any changes should be made to Exhibit 11-1: Impact Fee Schedule, and other sections of this chapter to reflect changes in the factors that affect the fee schedule. The purpose of this review is to analyze potential changes in needs, to assess any changes in the characteristics of land uses, to assess Capital Public Facility Standards, to assess changes on the demand new growth and development places on County Capital Facilities, and to ensure that the Impact Fees charged new Impact-Generating Land Development will not exceed its pro rata share for the reasonably anticipated expansion costs of County Capital Facilities.

#### **1108.9. Borrowing of Funds from Non-Impact Fee Source.**

If the Board borrows funds from non-impact fee sources for the funding of Improvements for County Capital Facilities with the intent of repaying those funds with Impact Fees, the following procedures shall apply. The Board shall adopt a resolution finding that the Improvements for County Capital Facilities for which the funds are borrowed shall mitigate needs created by

Impact-Generating Land Development. The Board shall adopt a resolution providing for the appropriation and expenditure of Impact Fee funds in order to reimburse the source of the borrowed funds in the same manner that the Impact Fees would otherwise be expended.

**1108.10. Enforcement.**

Knowingly furnishing false information to any governmental official on any matter related to the administration of this chapter shall constitute a violation of this chapter. Violations of this chapter shall be prosecuted in the same manner as misdemeanors are prosecuted and upon conviction, shall be punishable by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment in the county jail not to exceed sixty (60) days or by both such fine and imprisonment; however, in addition to or in lieu of any criminal prosecution, the County shall have the power to sue for legal and equitable relief in Circuit Court to enforce the provisions of this chapter.

## Exhibit 11-1, Impact Fee Schedule



### Manatee County Impact Fee Schedule For Unincorporated Areas April 18, 2016

<u>Law Enf.</u>	<u>Libraries</u>	<u>Multi-Modal Transportation</u>				<u>Parks &amp; Natural Resrcs</u>	<u>Public Safety</u>	<u>Admin. Surchg</u>	<u>Total Fee</u>			
		<u>NE District</u>	<u>NW District</u>	<u>SE District</u>	<u>SW District</u>				<u>NE District</u>	<u>NW District</u>	<u>SE District</u>	<u>SW District</u>

#### RESIDENTIAL (Per Housing Unit)

1000 sq ft or less	\$222	\$119	\$2,863	\$2,731	\$2,107	\$1,669	\$538	\$120	\$55	\$3,917	\$3,785	\$3,161	\$2,723
1001 - 1300 sq ft	\$345	\$185	\$4,455	\$4,250	\$3,279	\$2,598	\$836	\$186	\$86	\$6,093	\$5,888	\$4,917	\$4,236
1301 - 1700 sq ft	\$473	\$253	\$6,092	\$5,812	\$4,485	\$3,541	\$1,144	\$255	\$118	\$8,335	\$8,055	\$6,728	\$5,784
1701 - 2200 sq ft	\$596	\$319	\$7,657	\$7,304	\$5,636	\$4,450	\$1,442	\$321	\$149	\$10,484	\$10,131	\$8,463	\$7,277
2201 or more sq ft	\$744	\$399	\$9,541	\$9,102	\$7,024	\$5,543	\$1,801	\$401	\$186	\$13,072	\$12,633	\$10,555	\$9,074

#### NONRESIDENTIAL (Per 1,000 sq ft unless otherwise stated)

Commercial/Shop Ctr	\$591	\$0	\$13,041	\$12,441	\$9,600	\$9,330	\$0	\$149	\$75	\$13,856	\$13,256	\$10,415	\$10,145
Office & Other Services	\$231	\$0	\$5,104	\$4,869	\$3,757	\$3,651	\$0	\$177	\$89	\$5,601	\$5,366	\$4,254	\$4,148
Hospital	\$277	\$0	\$6,117	\$5,836	\$4,503	\$4,377	\$0	\$177	\$89	\$6,660	\$6,379	\$5,046	\$4,920
Mini-Warehouse	\$52	\$0	\$1,156	\$1,103	\$851	\$827	\$0	\$123	\$62	\$1,393	\$1,340	\$1,088	\$1,064
Warehouse	\$74	\$0	\$1,647	\$1,571	\$1,212	\$1,178	\$0	\$123	\$62	\$1,906	\$1,830	\$1,471	\$1,437
Manufacturing	\$80	\$0	\$1,767	\$1,686	\$1,301	\$1,264	\$0	\$123	\$62	\$2,032	\$1,951	\$1,566	\$1,529
Light Industrial	\$146	\$0	\$3,225	\$3,076	\$2,374	\$2,307	\$0	\$123	\$62	\$3,556	\$3,407	\$2,705	\$2,638
Nursing Home	\$159	\$0	\$3,517	\$3,355	\$2,589	\$2,516	\$0	\$177	\$89	\$3,942	\$3,780	\$3,014	\$2,941
Day Care/School	\$213	\$0	\$4,712	\$4,495	\$3,469	\$3,371	\$0	\$177	\$89	\$5,191	\$4,974	\$3,948	\$3,850
Lodging <sup>(1)</sup>	\$118	\$0	\$2,605	\$2,485	\$1,917	\$1,864	\$0	\$33	\$17	\$2,773	\$2,653	\$2,085	\$2,032

#### Notes

- Rates shown on this schedule are 100% of the rates supported by the December 3, 2015 TischlerBise impact fee study for Manatee County.
- Medical offices are assessed at the Office rate.
- Nursing homes, assisted living facilities, and residential treatment facilities are assessed at the Nursing Home rate.
- Hospitals are assessed per 1,000 square feet.

### Exhibit 11 - 2: Multimodal Transportation Benefit Districts

