

RESOLUTION NO. R-19-055

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA; ADOPTING A MANATEE COUNTY FACILITY INVESTMENT FEE ADMINISTRATIVE PROCEDURES MANUAL; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Manatee County, Florida, pursuant to Part II, Chapter 163, Florida Statutes, has adopted the Manatee County Comprehensive Plan, pursuant to Ordinance 90-01 (as amended, the “Comprehensive Plan”) to guide growth and development in Manatee County; and

WHEREAS, the County has implemented the Manatee County Comprehensive Plan through the adoption of land development regulations, pursuant to Ordinance 90-01, codified as the Manatee County Land Development Code (as amended, the “Code”); and

WHEREAS, pursuant to Ordinance No. 19-22, the “Facility Investment Fee Ordinance”, and in accordance with Section 163.31801, Florida Statutes, the County has established a system of facility investment fees to fund capital facilities needed in order to accommodate new development, based upon facility investment fee study and other testimony and evidence entered into the record at the public hearings held for the adoption of the Facility Investment Fee Ordinance; and

WHEREAS, the Ordinance authorizes the adoption of regulations and manuals to establish the technical standards for development in accordance with the Code; and

WHEREAS, in order to fully implement the requirements of the Comprehensive Plan and Code, it is in the interest of the public health, safety and welfare to adopt a Manatee County Facility Investment Fee Administrative Procedures Manual.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. ADOPTION OF MANATEE COUNTY FACILITY INVESTMENT FEE ADMINISTRATIVE PROCEDURES MANUAL. The Board of County Commissioners hereby adopts the Manatee County Facility Investment Fee Administrative Procedures Manual, dated June 18, 2019.

SECTION 2. APPLICABILITY. The standards and procedures set forth in the Facility Investment Fee Administrative Procedures Manual shall be applied in accordance with the requirements of the Code and Comprehensive Plan, to all applications, decisions or development approvals pending before the County effective on October 1, 2019 or filed or initiated thereafter. In the event of any conflict between a provision of the Facility Investment Fee Administrative Procedures Manual and a provision of the Code or Comprehensive Plan, the provision of the Code or Comprehensive Plan shall supersede the conflicting provision of the Manual.

SECTION 3. SEVERABILITY. If any section, sentence, clause, or other provision of this Resolution or any exhibit incorporated herein 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 Resolution or any exhibit incorporated herein.

SECTION 4. EFFECTIVE DATE. This Resolution shall take effect October 1, 2019.

PASSED AND DULY ADOPTED, with a quorum present and voting, by the Board of County Commissioners of Manatee County, Florida, this the 18th day of June, 2019.



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

By: Stephen R. Johnson
Chairperson

ATTEST: ANGELINA COLONNESO
Clerk of the Circuit Court
and Comptroller

By: Robin Patten DC
Deputy Clerk

EXHIBIT A-1

MANATEE COUNTY IMPACT FEE ADMINISTRATIVE PROCEDURES MANUAL

ADOPTED BY RESOLUTION R-19-055

Facility Investment Fee

Administrative

Procedures Manual

Potable Water and Wastewater

Facility Investment Fee

June 18, 2019



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Introduction

This Administrative Procedures Manual contains supplemental details and forms used in the administration of Manatee County's utility Facility Investment Fees (FIF).

The Manual is organized roughly per the section headings in Article VIII of Chapter 2-31 – Water, Sewers and Sewage Disposal, of the Manatee County Code of Ordinances (Code) but does not repeat the text contained in the Code. It is important, therefore, that property owners, fee payers, and staff reference the current versions of Article VIII of the Code, as well as the most current version of this manual.

Legislative Findings, Reliance on Facility Investment Fee Study and Intent

- The Board of County Commissioners (Board) approved this manual by Resolution No. 19-55.
- The most recent FIF study is dated February 28, 2019.
- In Manatee County, facility investment fees are codified in Code Article VIII, Chapter 2-31.

It is the intent of Manatee County to have administrative decisions governed by specific criteria and facility investment fee methods documented in the Facility Investment Fee Study and the legislative findings and intent articulated in the Code. The findings and the legislative intent guide implementation and administration of facility investment fees.

Facility Investment Fee Determination

Code Article VIII, Chapter 2-31 describes the way facility investment fees are levied and calculated, how an independent impact analysis may be performed to verify the impact of a proposed use on utilities capital facilities, and the award and use of credits against facility investment fees. This section of the manual clarifies the way those sections of the Code are to be implemented to maintain consistency with Florida law and generally-accepted facility investment fee practices in the state.

Facility Investment Fee Obligation

Any connection to the county public utilities facilities will be subject to the facility investment fee obligations of Code Section 2-31-207. This requirement may include new construction, additions to existing buildings, and changes of meter or line size. The amount of facility investment fees owed is determined when a building permit application is submitted and required to be paid as provided in Code Section 2-31-207(c).

Customer and Service Classifications

There are two (2) classes of customers: (1) wholesale and (2) retail.

- (a) Wholesale service. Municipalities, political subdivisions, or other governmental entities, and private utilities with rates regulated by the Florida Public Service Commission or by the county, that have their wastewater treated by the county, and/or purchase potable water from the county potable water system, as a single resale customer, for the reselling of the purchased service to their retail customers located within their utility service jurisdictions.
- (b) Retail service. All service other than wholesale service as in (a) above. Retail service shall include the following classifications:

- (1) Residential, single-family. All residences containing one dwelling unit, individually metered and not connected in any manner to a commercial establishment. This includes individually metered mobile homes located in a mobile home park.
- (2) Residential, multifamily. All residential structures containing two (2) or more dwelling units, including but not limited to the following:
 - a. Single-family residences in subdivisions served by master meters;
 - b. Existing duplexes served by one meter; and
 - c. Condominiums, apartments, and mobile home parks served by master meters.
- (3) Mobile home. Individual mobile homes, as defined F.S. § 513.01, which are individually metered and not located in a mobile home park, as defined F.S. § 513.01.
- (4) Recreation Vehicle. A vehicular type unit primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle pursuant to F.S. § 320.01, and includes but is not limited to the following:
 - a. Individual recreation vehicles individually metered; and
 - b. Recreation vehicle parks served by master meters.
- (5) Hotel or motel. Hotel shall mean any building or portion thereof, or a group of buildings which provides two (2) or more lodging units for transient occupancy on a daily, weekly, or similar short-term basis. Hotel shall include but shall not be limited to motel, inn, motor inn, motor lodge, tourist cabin and tourist court. A hotel shall also be deemed to include any establishment which provides residential living accommodations on a more or less permanent basis, such as an apartment hotel; provided that where more than twenty-five (25) percent of the units in an apartment hotel have cooking facilities, such establishment shall be deemed a multi-family dwelling and shall be subject to this Code as such, counting each such unit as a dwelling unit for all purposes.
- (6) Commercial. Includes, but is not limited to, rooming houses, retail and wholesale sales operations, office buildings, shopping centers, warehouses, bakeries, vending operations, laundries, retirement/rest/nursing homes, restaurants, hospitals, schools, churches, government facilities, and other related service operations.
- (7) Industrial and Manufacturing. Reference Chapter 2 of the Land Development Code and includes all manufacturing, agricultural, chemical, and food processing plants.
- (8) Large user. A commercial or industrial customer with a reserve capacity of either water service or wastewater service on an individual service basis that equals or exceeds an average of one million gallons per day (1 MGD).
- (9) Wastewater only. Any customer connected to the wastewater system who uses other than county potable water service.
- (10) Metered irrigation. A residential or commercial customer with a potable water meter or reclaimed water meter for the sole purpose of watering grass and vegetation. No impact shall be made upon the wastewater system because of this service.
- (11) Public fire protection. Public fire hydrants and other devices used to supply potable water or reclaimed water to meet general firefighting requirements.

- (12) Private fire protection. Separate fire connections, standpipes with hose attachments, tanks, and automatic sprinkler systems located on and providing fire service to a customer's property.
- (13) Other. Any other retail service not defined (e.g. Tiny Houses), where rules have not been developed per Land Development Code, fees will be based on flow/demand on the system as determined by the County.

Fees Levied

General

The facility investment fee to be charged shall be based on the appropriate customer classification and meter/line size based on the permit application. The facility investment fee is in addition to all other service charges and fees charged by the county to establish and subsequently use the utility service being requested by the customer.

The facility investment fee is not transferable to real property at a location other than that for which it was paid.

For individually metered residential dwelling units established on and after December 10, 1981, FIFs shall be determined per either the actual meter size serving the property or a 5/8 -inch × 3/4-inch meter size, whichever is greater.

Extensions

If an applicant with a building permit was obligated to pay facility investment fees prior to the issuance of a certificate of occupancy under the county's utility rate resolution, the applicant shall pay the facility investment fees in effect at the time the building permit was issued. However, if an extension of the building permit is requested, the provisions of Code Section 2-31-207(D) shall apply.

Large Users and Reserve Capacity

Reserve capacity and/or size of service for reserve capacity made by a customer requesting reserve capacity shall be based on calculations certified in writing by a qualified professional engineer registered in the State of Florida or as determined and approved by the impact fee administrator.

Reserve capacity shall be charged per the facility investment fee in effect at the time of issuance of a building permit.

All large users are required to enter into a contract with the county for the purchase of potable water or wastewater service. The contract will specify a reserve capacity and may include provisions for changing the reserve capacity. The reserve capacities for large users are subject to upward adjustments by amendment of the contracts or in accordance with provisions specified in the contracts, and upward capacity adjustments will be subject to the application of additional facility investment fees currently in effect at the time of contract amendment. No refunds of previously paid facility investment fees by large users will be made if a downward adjustment occurs.

Irrigation

If an existing residential or commercial customer with one meter installs two (2) meters, one for potable water and one for irrigation, separate facility investment fees, corresponding to the schedule established in Code Section 2-31-209(A), will be charged for each meter.

Wastewater

An applicant may demonstrate, through a report by a qualified professional engineer registered in the State of Florida to the satisfaction of the impact fee administrator and based on the most recent and localized data, that a specific amount of potable water to be used by the applicant will not be returned to the wastewater system in the form of wastewater.

At the discretion of the county administrator the applicant may be charged a lower wastewater facility investment fee corresponding to the approximate use of the county wastewater system. If at a future time the applicant increases the amount of wastewater delivered to the county wastewater system above the amount upon which the initial facility investment fee was based, the applicant shall pay the difference between the wastewater facility investment fee for the new level of use of the wastewater system, as determined by the impact fee administrator, and the corresponding current facility investment fee paid by the applicant for the estimated initial level of service.

Reinstallation

The facility investment fee for reinstallation of meters pulled for uninhabitable properties and reinstalled after eighteen (18) months shall be the difference between the facility investment fee in effect at the time of reinstallation and the facility investment fee in effect when the meter was pulled.

Non-County Customers

Any retail potable water or wastewater customers located outside the geographic boundaries of the county are required to enter a contract with the county for the purchase of potable water or wastewater service. The contract will specify the facility investment fees to be paid by such customers to the county as a condition of receiving service.

Refunds

If an applicant has paid required facility investment fees and has obtained a building permit which expires without the possibility of further extension, the applicant shall be entitled to a refund of the facility investment fees paid that correspond only to the specific development for which the permit was issued, without interest.

To be eligible for a refund, the applicant may submit a Request for Facility Investment Fee Refund form to the impact fee administrator within thirty (30) days after the expiration of the building permit for which the facility investment fees were initially paid.

Time Fees Paid

Issuance of Building Permit

Facility investment fees shall be paid at the time a building permit is issued.

Facility investment fee payments will not be accepted without the existence of a valid application for building permit.

Time Payments

Residential

The owners of single-family and multifamily residential units already granted occupancy on or before the date of certification of the line extension, may pay the required facility investment fees in accordance with the following conditions:

- a. To qualify for time payment, the owners of the property must not have any delinquent accounts and must enter into a contract with the county providing that the balance due shall constitute a lien against the real property which will be connected to the potable water and/or wastewater system and that the balance due, if any, will be fully paid at the time of the sale or other transfer of title to the real property;
- b. The owners of the property shall agree to maintain billing in the names of the property owners until all fees due and interest are paid and the lien is satisfied;
- c. In addition to the principal amount of the applicable facility investment fees, the property owners shall pay interest at an annual rate of the prime interest rate in effect on January 1 of each year plus three (3) percent;
- d. A contract to pay the applicable facility investment fees will provide for a maximum of one hundred twenty (120) payments to include principal and interest, payable by monthly billing;
- e. If not timely paid, the unpaid balance and interest accrued thereon, together with attorney's fees and costs, may be recovered in a civil action in any manner authorized by law, and any such lien and accrued interest may be foreclosed or otherwise enforced by action or suit as for the foreclosure of a mortgage on real property; and
- f. Upon receipt of full payment of the principal amount and interest, the impact fee administrator shall be authorized to execute and record a satisfaction of the lien on the real property.

Commercial

The owners of properties listed in the commercial classifications identified under Customer Classifications, may also be permitted to make time payments if the impact fee administrator determines that health issues and financial hardship exist.

Requests for time payments for commercial properties must be made by the county health department and approved by the impact fee administrator.

Wastewater Extensions

An existing structure shall be any structure for which a certificate of occupancy or temporary certificate of occupancy has been issued before the date of notification of wastewater line certification by the county.

Connection must occur within one hundred twenty (120) days or the facility investment fee will be payable, as determined by the impact fee administrator.

Existing Structure Modifications

When the owner of one dwelling unit of a duplex served by a single meter installs separate meters, no additional facility investment fee will be charged for this change in the metering of utility service.

If an existing residential structure is converted from a single dwelling unit to a duplex which results in an additional dwelling unit served, one additional potable water and wastewater facility investment fee will be charged based on the customer classification.

If an existing residential structure is converted to a multiunit facility, additional potable water and wastewater facility investment fees will be charged for each additional dwelling unit added to the converted structure based on the customer classification.

An existing master meter customer may convert to individual meters upon approval by the Utilities Director.

- a. No additional facility investment fee will be charged to residential customers for this change in the metering of utility service.
- b. Each individual commercial and industrial customer will be charged a facility investment fee based on meter size. The difference between the applicable facility investment fee for the existing master meter and the applicable facility investment fee for a reduced size meter may be applied toward the facility investment fee for the new meter or meters.

Wholesale Customers

All wholesale customers are required to enter into a contract with the county for the purchase of potable water or wastewater service. The contract will specify a reserve capacity and may include provisions for changing the reserve capacity.

Subject to availability, new or existing wholesale customers may purchase potable water or wastewater reserve capacity in accordance with provisions specified in the contracts for such service. Such fees are in accordance with Code Section 2-31-209. The reserve capacities for wholesale customers are subject to upward adjustments by amendment of the contracts or in accordance with provisions specified in the contracts. The reserve capacities for wholesale customers are also subject to downward adjustments, at the county's discretion, should:

- (1) Drought or other natural conditions result in insufficient ground or surface water to meet the needs of all users of the county potable water system; or
- (2) The county's SWFWMD water use permit(s) be modified to allow lesser quantities of potable water usage; or
- (3) A wholesale customer's contract with the county expires or is terminated.

If a wholesale customer reduces its reserve capacity in accordance with the terms of a contract or an amendment to a contract, and FIFs were previously paid to the county for such capacity that will no longer be reserved by the respective wholesale service customer, no reimbursement of any previously paid FIFs for the reserve capacity reduction will be made to the wholesale customer. To the extent that a wholesale service customer subsequently elects to increase its reserved capacity after first electing to

reduce its reserved capacity, such wholesale service customer shall pay the then prevailing facility investment fee for the increase in serviced capacity being requested.

Fire Service

Connection of fire lines to the county potable water system requires payment of facility investment fees based on meter size for meters smaller than three (3) inches or line size for lines three (3) inches or larger per Code Section 2-31-209(A).

In the interest of promoting residential fire protection, single-family residential potable water and fire line services may be combined. Meter upsizing of one line size for the 5/8 -inch × ¾-inch service and the ¾-inch service will be provided at no additional facility investment fee when such upsizing results from fire sprinkler installation. This does not apply to irrigation/fire line combinations.

No individual fire lines under one inch shall be installed. No combined residential potable water/fire line meters of more than one inch will be approved.

Fire line connections downstream of a potable water master meter are not subject to the facility investment fees listed in this section.

Unlisted Uses

For uses not specifically listed on the fees schedule, the impact fee administrator may determine the fee category that most accurately fits, based on the assumptions and methodology in the facility investment fee study and other relevant and professionally-accepted indicators of demand. However, if the impact fee administrator determines that no listed category in the schedule fits, the impact fee administrator may conduct an independent impact analysis to determine the appropriate fee.

In these instances, the impact fee administrator will maintain a list of determinations made as to proposed *unlisted* categories; first, to ensure the Code is applied consistently the next time a unique category is proposed; and second, to inform stakeholders during subsequent facility investment fee studies, Code revisions, and updates to the Procedures Manual.

Affordable Residential Units – Financial Assistance

Findings and Purpose

The recitals of Ordinance No. 07-48 are adopted by the Board of County Commissioners as findings of the county and are incorporated herein by reference.

The recitals of Resolution No. 17-069 are adopted by the Board of County Commissioners as findings of the county and are incorporated herein by reference.

Financial assistance for retail potable water and wastewater facility investment fees is hereby established for assisting eligible property owners who construct affordable multifamily residential units in unincorporated Manatee County.

Definitions

As used in this section, the following words and terms shall have the following meanings unless a different meaning clearly appears from the context:

- (1) *Affordable* shall have the same meaning as defined in Section 200 of the Manatee County Land Development Code.
- (2) *Low income household* shall have the same meaning as defined in Section 200 of the Manatee County Land Development Code.
- (3) *Owner* shall have the same meaning as defined in Section 200 of the Manatee County Land Development Code.
- (4) *Very low-income household* shall have the same meaning as defined in Section 200 of the Manatee County Land Development Code.

Administration

The impact fee administrator is authorized to administer the financial assistance established by this section.

Funding

The financial assistance shall be funded by revenues derived from the county public utilities facilities after all current obligations under the bond resolution have been satisfied.

No county funds payable from tax revenues shall be expended or used for any financial assistance established by this section.

The provision of financial assistance by the county in the manner described in this section does not constitute a debt of the county within the meaning of any constitutional or statutory prohibition.

Neither the taxing power nor the full faith and credit of the county is pledged in any way to provide the financial assistance contemplated in this section.

The county may modify or discontinue the financial assistance established in this section by amendment or repeal of this section.

Eligibility

Eligibility for the financial assistance for potable water and wastewater facility investment fees is limited to all real property owners who meet the following criteria:

- (1) A land use restriction agreement or other document must be recorded in the public records of Manatee County, Florida, limiting the property to affordable housing for low income households and very low-income households;
- (2) The land use restriction agreement or other document must be effective for a minimum period until repayment of the financial assistance or expiration or termination of the contract for time payments, whichever date occurs last;
- (3) A building permit application must be submitted to the county for construction of multifamily residential units on the property;

- (4) The retail potable water and wastewater facility investment fees imposed for the multifamily residential units must be based on the customer classification for residential, multifamily, as described in Code Section 2-31-209(d)(2);
- (5) The multifamily residential units must be designated as eligible affordable housing by the county Redevelopment & Economic Opportunity Department for occupancy and occupied by low income households or very low-income households; and
- (6) A minimum of twenty-five (25) per cent of the total multifamily residential units must be reserved for occupancy by low income households or very low-income households.

Application Process

Applications for financial assistance for affordable multifamily residential units must be completed and signed by all owners of the real property upon which such units have been approved for construction.

The property owners shall submit the application, financial data concerning the affordable multifamily residential units and the property, a title opinion prepared by an attorney licensed in Florida showing ownership of the property and all mortgages, liens, and other encumbrances recorded on the property, and copies of all documentation required by f this section to the county impact fee administrator.

The impact fee administrator shall evaluate the credit status of the property owners, review the title opinion of the property, and determine whether the property owners meet the eligibility criteria specified under eligibility and comply with the conditions specified in the application process.

The impact fee administrator shall approve or deny the financial assistance.

Payment of Facility Investment Fees

Upon approval of the financial assistance, the county shall pay the facility investment fees established by Code Section 2-31-209.

The facility investment fees paid by the county shall be limited to the amount imposed for those multifamily residential units designated as affordable for low income households and very low-income households.

The property owners shall repay the applicable facility investment fees to the county in accordance with the conditions for time payments.

Time Payments

Time payments for potable water and wastewater facility investment fees for affordable multifamily residential units shall be subject to the following conditions:

- (1) In addition to the principal amount of the applicable facility investment fees, the property owners shall pay interest at an annual rate equal to the prime rate in effect at the time the completed application for financial assistance is submitted to the impact fee administrator;
- (2) The owners of the property must enter into a contract with the county providing that the balance due shall constitute a lien against the real property which shall be connected to the potable water or wastewater system and that the balance due, if any, shall be paid at the time of the sale or other transfer of title to the real property;
- (3) The owners of the property shall agree to maintain billing in the names of the property owners until all facility investment fees and interest due are paid and the lien is satisfied;

- (4) A contract to pay the applicable facility investment fees shall provide for a maximum of thirty-six (36) payments to include principal and interest, payable by monthly billing;
- (5) If not timely paid, the unpaid balance and interest accrued thereon, together with attorney's fees and costs, may be recovered in a civil action in any manner authorized by law, and any such lien and accrued interest may be foreclosed or otherwise enforced by action or suit as for the foreclosure of a mortgage on real property;
- (6) The holders of any mortgages, liens, and other encumbrances recorded on the property shall execute, in the same manner as deeds are required to be executed, an instrument joining in and consenting to the contract with the county for time payments and the lien of the county for the applicable facility investment fees plus total interest;
- (7) The property owners shall post a performance bond, letter of credit, or other security acceptable to the county in an amount equal to the applicable facility investment fees plus total interest as guarantee for payment in the event of bankruptcy, foreclosure, dissolution, or assignment; and
- (8) The performance bond, letter of credit, or other security must be effective for a minimum period until expiration or termination of the contract for time payments.

Independent Impact Analysis

Under Code Section 2-31-209(C), an applicant may submit an "independent impact analysis" to demonstrate that a different level of impact on the County's public utility facilities from a particular development should be the basis for the facility investment fee obligation, not the fee schedule in the Code.

In addition, the impact fee administrator may perform an independent impact analysis using County staff and current local data to verify the appropriate facility investment fee obligation for a proposed development, including uses not listed in the fee schedule, mixed uses, changes in use, and the extent to which a particular use or structure is accessory or ancillary to a primary use. The following procedures apply to independent impact analyses.

Criteria

The facility investment fee may be determined by an alternative fee calculation, based on most recent and localized data, of the fiscal impact of the development on the county public utility facilities if the applicant:

1. believes that the base information used to calculate the facility investment fee for the customer's development is inconsistent, or
2. has a unique or restrictive land use that can be verified through the county's building permit or business use permit process, and believes that this results in a different value than that used to calculate the facility investment fee for the customer's development, or
3. has a land use that is not listed in the retail customer classification schedule, or believes the use is incorrectly assigned in the retail facility investment fee schedule, or
4. believes that the nature, timing or location of the proposed development makes it likely to generate impacts costing less than the amount of the facility investment fee generated

by application of Code Chapter 2-31, Article VIII, as applicable for the public facilities at issue;

Qualifications of Preparer

An independent impact analysis must be prepared and certified by an expert (a qualified professional engineer registered in the State of Florida) approved by the impact fee administrator, based on relevant training and experience (*e.g.* a registered professional engineer or member of the American Institute of Certified Planners). The preparer should be qualified in the fields of planning, engineering, or economics, or an impact fee consultant.

Optional Independent Impact Analysis

In lieu of determining impact fees based on the current schedule, an applicant may submit an application requesting that impact fees be determined by an independent impact analysis. The burden will be on the applicant requesting the independent impact analysis to demonstrate by competent substantial evidence that the data, assumptions, and service units used in the impact fee study are less accurate than the results of the independent impact analysis.

Mandatory Independent Impact Analysis

The impact fee administrator may require an applicant to perform an independent impact analysis if the type of Impact-Generating Land Development is not comparable to a category listed in the facility investment fee schedule. If the applicant is required to perform an independent impact analysis, the applicant will retain a qualified professional engineer registered in the State of Florida at the applicant's expense. However, the expense of preparing the independent impact analysis will be a facility investment fee credit applied to reduce the Administrative Surcharge.

Process

Request

The applicant commences the alternative fee calculation by obtaining a Request for Alternative Fee Calculation Form ("Request") from the Utilities Department. The form must be prepared and certified by an expert as defined above.

The Request must be submitted to the impact fee administrator or designee and the pre-submission meeting described below must occur within ninety (90) days of the issuance of a certificate of occupancy or certificate of completion for the development.

The applicant shall be required to receive approval from the impact fee administrator or designee prior to proceeding with the alternative fee calculation.

Payment

Applicant shall pay to the county in full:

(1) the facility investment fee calculated pursuant to the applicable facility investment fee rate schedule in effect at the time of filing the Request; and

(2) a non-refundable alternative fee calculation review fee to the county in an amount to be established by resolution, which shall not exceed the actual cost of reviewing the alternative fee calculation.

Initial Review

Upon receipt of the Request, impact fee administrator or designee will review the submission for completeness and sufficiency.

If additional material is required for effective review, the impact fee administrator or designee will notify the applicant within ten (10) county business days after the date of receipt of the Request of the need for such additional material.

The applicant must provide the requested additional materials and information within fourteen (14) county business days of receipt of notice or the Request will be considered withdrawn.

Pre-submission Meeting

Upon acceptance of the Request and prior to commencing the alternative fee calculation, the applicant and qualified professional engineer registered in the State of Florida will attend a pre-submission meeting with the impact fee administrator or designee to discuss the procedures, requirements, methodology, and standards to be used for the alternative fee calculation.

Proposed Alternative Fee Calculation Method

After the pre-application meeting, the customer shall submit three copies of the proposed approach to the alternative fee calculation to the impact fee administrator.

The impact fee administrator shall have 30 county business days to respond in writing to the proposed approach.

If the impact fee administrator or designee concurs with the proposed approach, the customer will be notified to proceed with the alternative fee calculation.

If the impact fee administrator disagrees with the proposed approach, the impact fee administrator shall identify the problem areas for the customer to incorporate and address in its resubmittal to the county. If the impact fee administrator or designee has not approved the customer's proposed approach after one resubmittal, the customer may request a decision from the impact fee administrator whereupon the impact fee administrator shall either approve, approve with conditions, or deny the proposed approach.

Alternative Fee Calculation

The alternative fee calculation shall be undertaken through the submission of an impact analysis for the county public utilities facilities at issue. The impact analysis shall be based on data, information, methodology and assumptions contained in Code Article VIII, Chapter 2-31 consistently with the facility investment fee studies incorporated therein. An independent source, including local studies for alternative facility investment fee calculations performed by others within the immediately preceding three years, may be used provided that:

1. the independent source is a local study supported by a data base adequate for the conclusions contained in such study;

2. is performed pursuant to a methodology generally accepted by professionals in the field of expertise for the public facilities at issue; and
3. is based upon standard sources of information relating to facilities planning, cost analysis and demographics and generally accepted by professionals in the field of expertise for the public facilities at issue.

Technical details of approach, methodology, procedures and other matters relating to the alternative fee calculation may be addressed in an administrative memo or other such documentation.

The alternative fee calculation for the proposed development shall be:

1. prepared and certified by a qualified professional engineer registered in the State of Florida (as described above) and
2. submitted to the impact fee administrator by the customer within twelve (12) months of the issuance of the certificate of occupancy or certificate of completion for the development.
 - a. Prior to expiration of the foregoing twelve (12) month period, the customer may request in writing to the impact fee administrator or designee up to a six (6) month extension of time to submit the completed alternative fee calculation study.
 - b. Such extension request may be granted by the impact fee administrator or designee for good cause shown for extending the period in which the study is to be completed.
 - c. Other time extensions requested, in a timely manner by the customer in writing may be granted.

Alternative Fee Calculation Review

Within thirty (30) county business days of receipt of an alternative fee calculation, the impact fee administrator shall determine if it is complete.

If the impact fee administrator determines the application is not complete, a written statement shall be sent to the customer at the address set forth in the application specifying the deficiencies.

The impact fee administrator will not be required to take any further action on the alternative fee calculation until all specified deficiencies have been corrected.

After the impact fee administrator or designee determines that the alternative fee calculation is complete, the customer will be notified within ten (10) county business days of its completion, and the impact fee administrator shall, within thirty (30) county working days, complete a review of the data, analysis, and conclusions asserted in the alternative fee calculation.

If this review is not completed within these time frames, and if requested by the customer, the item will be scheduled for the next available board meeting.

Adjustments

If the impact fee administrator or designee determines that in the alternative fee calculation the county's cost to accommodate the proposed development is statistically significantly different than the facility investment fee established pursuant to Code Section 2-31-209, the amount of the facility investment fee shall be reduced to a dollar amount consistent with the amount determined by the alternative fee calculation.

Appeal

In the event the customer disagrees with a decision of the impact fee administrator that effectively results in a denial of the alternative fee calculation, the customer may file a written appeal petition using the Appeal of Alternative Fee Calculation Administrative Decision Form (“Appeal Petition”) obtained from the Utilities Department, with the Board not later than sixty (60) days after receipt of notice of such a decision by the impact fee administrator. In reviewing the decision, the Board shall use the standards established herein. The Appeal Petition must advise the Board of all issues and shall explain the precise basis the customer asserts that the decision(s) of the impact fee administrator or designee is/are alleged to be incorrect. The Board shall make the final determination of the facility investment fee to be paid by the customer.

Credits for System Improvements

Credits have the effect of providing capacity to county public utility facilities, which will fully or partially address the demand from new development. Credits are necessary to ensure that a property owner or developer who provides infrastructure capacity is not subject to double payment for county public utility facilities. Typically, credits will offset facility investment fees due on an individual permit, but only to reduce that portion of the fees that is attributable to the proportionate cost of system line extensions as reflected in the Facility Investment Fee Study and memorialized in a credit agreement.

Utility Facility Investment Fee credits shall be determined and applied pursuant to Code Section 2-31-5.

Annual Review

To ensure ongoing consistency with the Code, state law, and this manual, the impact fee administrator will annually review facility investment fee determinations with the Impact Fee Administrator and Utilities Department staff.

Administrative Interpretations

The intent of this manual is to define for current and future County staff and the public the criteria for making interpretations when they are needed – *which always is tied to verified demand for capital facilities for which facility investment fees are assessed.*

To advance consistency in the County’s administrative procedures over time, the impact fee administrator will document any administrative interpretations of Code Article VIII, Section 2-31 related to facility investment fees, along with the rationale for the decision. This will encourage consistent interpretations in the future, may inform the need for revisions to the facility investment fee program during the annual review, and may suggest the need for revisions during the next facility investment fee study update.

Each entry should:

- a. Explain why an interpretation is needed (*i.e.*, what is it about the proposed use that creates a question under the language of the Code);
- b. Identify any prior administrative interpretations that are relevant and provide guidance;
- c. Identify components of the current facility investment fee study and methodology which bear on the administrative interpretation; and

- d. Describe why the interpretation is believed to most closely follow requirements of Florida case and statutory law.

Administrative interpretations should be made after legal review by the County Attorney's office and should be guided by the findings and intent of the Code and the methodology and rationale set out in the facility investment fee study. An applicant may appeal a determination of the impact fee administrator, including administrative procedures related to impact fees. As needed, the impact fee administrator should craft and propose amendments to the Code to clarify facility investment fee policies and administrative procedures.

Appeal of Administrative Decisions

A decision made by the impact fee administrator on any matter governed by Code Article VIII, Section 2-31, may be appealed to the Board of County Commissioners. To initiate an appeal, the applicant must submit an application titled Appeal of Impact Fee Administrative Decision within sixty (60) days of the decision.

Forms Related to Impact Fee Administration

(Start on next page)

Request for Facility Investment Fee Refund

Refund requests must be accompanied by a receipt, cancelled check, or other evidence of fees paid. If a refund is approved, refund checks will be made out to the person/company/contractor that made the facility investment fee payment or a successor-in-interest.

Date of Request: _____ Permit Number: _____

Permit Application/Issue Date (Circle One): _____

Petitioner's Name: _____ \$ Amount Requested: _____

Fee Payer (Person/Contractor/Company): _____

Successor-in-Interest (if applicable): _____

Address for Refund Check: _____

Reason for Refund Request: _____

For Staff Use Only

Account Number: _____ Amount: _____

Account Number: _____ Amount: _____

Account Number: _____ Amount: _____

Account Number: _____ Amount: _____

Account Number: _____ Amount: _____

Account Number: _____ Amount: _____

TOTAL REFUND: _____

Permit Notes Updated: _____ Yes _____ No

Request for Alternative Fee Calculation – Facility Investment Fee

Attach any supplementary documentation referenced below.

FOR STAFF USE ONLY

Application Date: _____ Independent Impact Fee Analysis

File Tracking Number:

File Name:

Date of Pre-Application Conference: _____

Staff Recommendation Due Date (90 days from complete Application): _____

Reason for Independent

PROPOSED USE NOT LISTED ON ADOPTED FEE SCHEDULE

Impact Fee Analysis:

IMPACT ANTICIPATED TO BE LESS THAN FEE SCHEDULE

APPLICANT INFORMATION

Applicant Name: _____

Contact Name: _____

Mailing Address: _____

Telephone Number: _____

E-mail Address: _____

PROJECT INFORMATION

Project Name: _____

Project Location: _____

Project Description: _____

Development Units (# of dwelling or lodging units or square feet of non-residential use): _____

Impact Fee based on Fee Schedule:

Permit # (If Applicable):

CONSULTANT INFORMATION *(Attach resume indicating relevant education and experience)*

Company Name:

Responsible Professional:

Registration/License
Number:

State of Registration
Number:

(Please attach consultant resume to application)

PROPOSED INDEPENDENT IMPACT ANALYSIS

Proposed Methodology &
Service Unit Impact:

(Attach detailed documentation describing type and scope of proposed analysis)

APPLICANT SIGNATURE AND DATE

Undersigned hereby requests an independent impact fee analysis and proposes that, by competent substantial evidence, an alternative impact fee amount more accurately reflects the demands for the County's public utility facilities than the currently-effective facility investment fee schedule, as supported by recent and local data, statistically valid surveys, and a review of relevant professional literature.

Signature

Date

Printed Name

Appeal of Alternative Fee Administrative Decision

Under the provisions of Article VIII of Chapter 2-31-213 of the Manatee County Code of Ordinances, an applicant may appeal any decision of the County Impact Fee Administrator to the Board of County Commissioners, including but not limited to any of the following matters:

- Independent Impact Analysis
- Impact Fee Refund
- Impact Fee Credit

To appeal a decision on any of these matters, you MUST submit an Appeal to the County Impact Fee Administrator via certified mail within sixty (60) calendar days of the decision being appealed.

Date of Appeal _____

Appellant Name _____

Address _____

Telephone Number _____

E-mail Address _____

Type of Decision to be appealed _____

Date of Decision _____

Please attach a detailed description of the decision of the County Impact Fee Administrator being appealed and any supporting documentation in support of this appeal. The description should identify the relevant sections of the Code and the asserted basis for a reversal or modification of the decision of the County Impact Fee Administrator.

By: _____

Title: _____

FOR STAFF USE

Request Received By _____ Date _____

15-day Notice of Hearing on Administrative Decision Sent _____ (insert date)

Notice of Hearing on Administrative Decision

DATE

APPELLANT NAME

APPELLANT ADDRESS

RE:

You are hereby advised that the Manatee County Impact Fee Administrator has received your appeal of the above referenced determination, and has scheduled a public hearing before the Board of County Commissioners for

_____.

This hearing will be conducted in accordance with Article VIII, Section 2-31-213 (D) of the Manatee County Code of Ordinances. At the hearing, you will be provided an opportunity to identify the grounds for your appeal and the basis for the alleged error, based on the record. The County Impact Fee Administrator will be afforded the opportunity to respond, based on the record.

Manatee County Impact Fee Administrator

Name:

Title:

Telephone #:

E-mail: