

ORDINANCE 2022-05

AN ORDINANCE AMENDING CHAPTER 50 REGARDING LAW ENFORCEMENT; ADDING ARTICLE IV TO PROVIDE FOR POLICE SERVICES IMPACT FEES; PROVIDING FOR SHORT TITLE AND APPLICABILITY; PROVIDING FOR RULES OF CONSTRUCTION; PROVIDING FOR DEFINITIONS; PROVIDING FOR FINDINGS, CONCLUSIONS AND PURPOSE; ESTABLISHING POLICE SERVICES IMPACT FEES AND RATES; PROVIDING FOR EXEMPTIONS; PROVIDING FOR ADMINISTRATION; PROVIDING FOR APPEALS; PROVIDING FOR SEPARATE FUND; PROVIDING FOR ADMINISTRATION OF THE IMPACT FEES; AND PROVIDING FOR AN EFFECTIVE DATE.

Whereas, the Belleview City Commission (herein referred to as “the City Commission”) finds that impact fees are an important source of revenue for the City of Belleview (herein referred to as “the City”) to use in funding the infrastructure necessitated by new growth; and

Whereas, the City Commission further finds that impact fees are permissible by virtue of the home rule power of a local government to provide certain services within its jurisdiction. Whereas, providing adequate police protection is essential for the safety of the public; and

Whereas, the existing level of service in the City provides for the prompt dispatch of police assistance of a size and composition appropriate to the request and with an emergency response time of within five (5) minutes for the first arriving unit; and

Whereas, it is anticipated that new development in the City will directly and adversely impact existing police services; and

Whereas, the recent impact fee study by Raftelis Financial Consultants, Inc. regarding the Belleview Police Department advised as follows:

(a) To maintain adequate police protection for the existing population and to accommodate projected population due to new development, additional capital resources are required.

(b) Current sources of revenue will be inadequate to fund the cost of acquisition of property and capital equipment required to provide police service to new development.

(c) Without an impact fee, the adverse impact on existing and future residents of the City will result; and

Whereas, the Study has been presented to, and reviewed by, the City Commission of the City of Belleview, and it has been determined (1) that police impact fees are necessary to offset the costs associated with meeting future demands for the City’s police facilities and capital outlay pursuant to the projections set forth in the Study; (2) that the police impact fees bear a reasonable

relationship to the burden imposed upon the City to provide police facilities to new City residents; (3) that police impact fee revenues will provide a direct benefit to such new City residents reasonably related to the fees assessed; (4) that an essential nexus exists between projected new development and the need for additional police facilities to be funded with police impact fees and the benefits that accrue to new development paying the fees; and (5) that the amount of the police impact fees are roughly proportional to the *pro rata* share of the additional police facilities needed to serve new development; and

Whereas, the City Commission further recognizes the requirements set forth in Section 163.31801 Florida Statutes regarding local governments imposing impact fees; and

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

Whereas, the City Commission finds that it is in the best interest of the public safety and welfare to implement the following amendments to Chapter 50 by adding Article IV regarding imposing a police services impact fee, as set forth below.

NOW THEREFORE, BE IT ORDAINED by the City Commission of the City of Belleview, Florida as follows:

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

SECTION 2. Chapter 50, of the City of Belleview Code of Ordinances, regarding Law Enforcement be hereby amended to Add Article IV which shall read as follows, to wit:

“Chapter 50. Law Enforcement

Article IV. Police Impact Fee.

Sec. 50-70 - Short title and applicability.

(a) This Article may be cited as the “Police Impact Fee Ordinance.”

(b) This Article shall be applicable to all land development in the City of Belleview.

Sec. 50-71 - Rules of construction.

(a) The provisions of this Article shall be liberally construed so as to effectively carry out its purpose in the interest of public safety.

For the purposes of administration and enforcement of this chapter, the following rules of construction shall apply to the text of this chapter:

If there is any conflict between the text of this chapter and any table, summary table or illustration, the text shall control.

The word "shall" is always mandatory and not discretionary; the word "may" is permissive.

(3) "Used for" includes "arranged for," "designed for," "maintained for," or "occupied for."

Sec. 50-72. Definitions.

For purposes of this section, the term:

Applicant means the person who applies for a building permit or submits a plat.

Building means any structure having a roof entirely separated from any other structure by space or by walls in which there are no communicating doors or windows or any similar opening and erected for the purpose of providing support or shelter for persons, animals, things or property of any kind.

Building permit means an official document or certificate issued by the City of Belleview, authorizing the construction siting, or change of use of any building. For purposes of this chapter, the term "building permit" shall also include tie-down permits for those structures or buildings, such as mobile homes, that do not require a building permit in order to be occupied.

Comprehensive Plan ("Comp. Plan") means the comprehensive plan of the City adopted and amended pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act, Section 163.3161 et seq., Florida Statutes (1987).

Development activity, development or activity means any activity for which a building permit is required pursuant to the Florida Building Code or any applicable City ordinance.

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

Existing development means the lawful land use physically existing as of the effective date of the ordinance and any development or additional development for which the landowner holds a valid building permit as of the effective date of this chapter.

Feepayer means a person intending to commence a proposed development for which an impact fee computation is required under this chapter, or a person who has paid an impact fee, or provided a letter of credit pursuant to this chapter.

F P Factor means functional population factors obtained from Table 5 of the impact fee study performed by Raftelis Financial Consultants, Inc. and dated February 9, 2022.

Hotel means a hotel or motel and is the category applied to any hotels, motels, or short term rental accommodation sites.

Impact means the effect of the new development, including additional residential and nonresidential development, on the police services of the City of Belleview.

Improvement means any physical improvement related to property, construction costs of a police district station or other facility, or acquisition of capital equipment that increases the capacity of public services.

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

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

Infrastructure means police department facilities; related land acquisition, land improvement, design, engineering, and permitting costs; other related construction costs required to bring the police department facility into service; and a police department vehicle and the equipment necessary to outfit the vehicle for its official use.

Land Development Director means the Belleview Land Development Director or successor, or the Director's designee.

Nonresidential development means development not providing for any residential units.

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

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

Person, for the purpose of this chapter, means individuals, partnerships, trusts, corporations, and all other legal entities authorized by the law of Florida to own and develop real property.

Police Chief means the Belleview Chief of Police or his designee.

Police services impact fee, fee, or impact fee means the proportionate fair share charge required to be paid in accordance with this Article.

Public facilities has the same meaning as in s. [163.3164](#) and includes law enforcement facilities

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

Residential development means any building or buildings designed to be used as dwelling units.

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

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

Unit or *unit of development* means a residential structure which is a single-family home, or a residential module; e.g., each condominium or apartment unit within a condominium complex or building.

Sec. 50-73. Findings, conclusions and purpose.

The Belleview City Commission finds as follows:

Impact fees are an important source of revenue for the City of Belleview (herein referred to as “the City”) to use in funding the infrastructure necessitated by new growth.

Impact fees are permissible by virtue of the home rule power of a local government to provide certain services within its jurisdiction.

Providing adequate police protection is essential for the safety of the public.

The existing level of service in the City provides for the prompt dispatch of police assistance of a size and composition appropriate to the request and with an emergency response time of within five (5) minutes for the first arriving unit.

Anticipated new development in the City will directly and adversely impact existing police services.

To maintain adequate police protection for the existing population and to accommodate projected population due to new development, additional capital resources are required.

Current sources of revenue will be inadequate to fund the cost of acquisition of property and capital equipment required to provide police service to new development.

Without an impact fee, the adverse impact on existing and future residents of the City will result.

(b) The purpose of this Article is to provide ample revenue to provide for adequate police protection for public safety, consistent with the requirements set forth in Section 163.31801 Florida Statutes regarding local governments imposing impact fees.

Sec. 50-74. Administrative charges.

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

Sec. 50-75. Impact fee capital fund accounts and use of capital fund account monies.

(a) The City will establish a Capital Projects fund in accordance with the State of Florida Uniform Accounting Systems under which police impact fees will be designated as the “Police Impact Fees Account” and shall be maintained separate and apart from all other accounts of the City. The monies deposited into the “Police Impact Fees Account” shall be used solely for the purposes as set forth in this chapter and shall be accounted for accordingly.

(b) Funds on deposit in the “Police Impact Fees Account” established within this article shall not be used for any expenditure that would be classified as an operational expense, a maintenance expense, or a repair or replacement expense.

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

(d) The “Police Impact Fees Account” Capital Fund falls under the accounting category of “Governmental” fund group under the Uniform Accounting System of the State of Florida.

Sec. 50-76. Fees Nontransferable.

(a) Impact fees are nontransferable unless such transfer is specifically required to be authorized by Florida Law.

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

Sec. 50-77. Non-binding impact fee estimate.

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

Sec. 50-78. Administrative rules and policies.

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

Sec. 50-79. Appeals.

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

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

Sec. 50-80. Penalties and liens against property.

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

Sec. 50-81. Adoption of impact fee study.

(a) The City Commission hereby adopts by reference the study entitled "City of Belleview 2022 Police Impact Fee Study," dated February 9, 2022, as prepared by Raftelis Financial Consultants, Inc. It relates to the computation and allocation of the capital costs of the City of Belleview to provide police protection.

(b) The City Commission finds there is a reasonable connection, or rational nexus, between the need for police facilities in the City and the growth in population anticipated within the city. In addition, the City Commission finds there is a reasonable connection, or rational nexus, between the anticipated expenditures of the police impact fees collected and the benefits accruing to anticipated new development.

50-82. Imposition of police services impact fee.

(a) Any application for building permit for development activity within the City shall be subject to the assessment of a police services impact fee in the manner and in the amount set forth below:

(b) Impact fee for Residential Property (single family dwellings):

Impact Fee per Residential Unit \$452.00

(c) Impact fee for Commercial Property:

<i>Land Use</i>	<i>Unit</i>	<i>FP Factor</i>	<i>Impact Fee</i>
Industrial/Warehousing	Per 1,000 sq ft	0.12	\$ 34.00
Hotel	Per Room	0.46	\$133.00
Institutional	Per 1,000 sq ft	0.25	\$ 74.00
Office Building	Per 1,000 sq ft	0.86	\$252.00
All Other Commercial	Per 1,000 sq ft	2.38	\$694.00

(d) Any building for which a building permit has been issued prior to adoption of this Ordinance shall not be subject to the provisions of this ordinance

(e) Payment shall be made in a form acceptable to the Finance Director. The Finance Director may charge a nonrefundable convenience fee to cover any transactional costs imposed by the institution processing the form of payment. Notwithstanding any other provision to the contrary, the payment amount due shall be based on the fee in effect on the date the plans filed with a building permit application are submitted to the City for impact fee assessment.

(f) The City shall have the authority to lien real property for which a Final Certificate of Occupancy (C.O.) has been issued but for which the correct required impact fee has not been paid in full. Such lien must be filed within three years from the date of issuance of the C.O. The City shall charge a collection fee above the value of the impact fee being collected to cover the cost of collection of unpaid impact fees.

(g) Notwithstanding the payment of a police services impact fee, other City, County or State developmental regulations may limit the issuance of building permits for development activity.

(h) Nothing in this Article shall prohibit or restrict funding of law enforcement related land, facilities and capital equipment from additional revenue sources to enhance police services.

Sec. 50-83. Schedule of payment of police impact fees.

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

Sec. 50-84. Disposition of revenues imposed by police impact fee.

The funds collected by reason of establishment of the police impact fees in accordance with this Article shall be used solely for the purpose of acquisition of facilities and equipment determined

to be needed to provide police for new development within the City. Said funds shall not be used to maintain or repair existing police facilities or equipment or to acquire facilities or equipment to serve existing development. The City shall spend funds on a first in, first out basis.

Sec. 50-85. Disposition of funds not expended.

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

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

(2) The petition must be submitted to the City Administrator and must contain:

(i) A notarized sworn statement that the petitioner is the current owner of the property;

(ii) A copy of the dated receipt issued for payment of the fee or other document evidencing the date the development was approved by the City, which development was never begun;

(iii) A certified copy of the latest recorded deed; and

(iv) A copy of the most recent ad valorem tax bill.

(3) If reimbursement is approved, the City shall remit to the petitioner within 60 days of approval.

(b) In determining whether a petitioner is entitled to a refund, it shall be assumed that impact fees are expended or encumbered in the same order in which they were received (that is, "first in, first out").

(c) No refund shall be made of any administrative fee authorized and collected pursuant to this chapter.

Sec. 50-86 - Exemptions.

(a) Alteration, expansion or replacement of an existing building or unit where the use is not changed, and the number of units or square footage is not increased shall not be subject to the impact fee. The burden of demonstrating the previous existence of a use or structure or previous payment of impact fees shall be upon the fee payer. In cases where there is an existing use, any additional fees shall be based upon the alteration to the existing use or structure.

(b) Governmental or public facilities are exempt from the impact fee, including those parcels, grounds, buildings, or structures owned by federal, state, or county governments.

(c) The construction of accessory buildings or structures where the use is not changed, such that an additional impact does not result and the number of units or square footage is not materially increased, is exempt.

(d) The City of Belleview shall be exempt from the police services impact fee.

Sec. 50-76. - Administration of this Article.

(a) The City Administrator shall ensure adherence to the requirements of Section 163 Florida Statutes (and any amendment thereto), to wit:

- (1) The calculation of the impact fee is based on the most recent and localized data.
- (2) Accounting and reporting of impact fee collections and expenditures and accounting for the revenues and expenditures of such impact fee is in a separate accounting fund.
- (3) Administrative charges for collecting impact fees are limited to actual costs.
- (4) At least 90 days' notice will be provided before the effective date of an ordinance or resolution imposing a new or increased impact fee.
- (5) New or increased impact fees may not apply to current or pending permit applications submitted before the effective date of a new or increased impact fee.
- (6) The collection of the impact fee may not be required to occur earlier than the date of issuance of the building permit for the property that is subject to the fee.
- (7) The impact fee is proportional and reasonably connected to, or has a rational nexus with, the need for additional capital facilities and the increased impact generated by the new residential or commercial construction.
- (8) The impact fee is proportional and reasonably connected to, or has a rational nexus with, the expenditures of the funds collected and the benefits accruing to the new residential or nonresidential construction.
- (9) Specifically earmark funds collected under the impact fee for use in acquiring, constructing, or improving capital facilities to benefit new users.
- (10) The revenues generated by the impact fee are not used, in whole or in part, to pay existing debt or for previously approved projects unless the expenditure is reasonably connected to, or has a rational nexus with, the increased impact generated by the new residential or nonresidential construction.

(b) Any increase to a current impact fee rate shall be in accordance with the requirements and limitations of Section 163.31801 Florida Statutes, or amendments thereto.”

BE IT FURTHER ORDAINED by the City Commission of the City of Belleview, Florida that Sections of this ordinance may be renumbered or re-lettered to accomplish such intention; and that the word “ordinance” may be changed to “section”, “article” or other appropriate designation.

SECTION 3. Severability. If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.

SECTION 4. Conflicts Repealed. All ordinances or parts of ordinances in conflict with this Ordinance shall be repealed to the extent of such conflict. If any portion of this Ordinance is found to be invalid, then only that portion of this Ordinance shall be stricken.

SECTION 5. Effective Date. This Ordinance shall become effective on _____, which is ninety (90) days from the date of adoption of this Ordinance, pursuant to §163.31801, Florida Statutes.

CERTIFICATE OF ADOPTION AND APPROVAL

The above and foregoing ordinance was duly read and approved upon **First Reading** by a ____ vote of the City Commission of the City of Belleview, Florida, at a Regular Meeting held on the ____ day of _____, 2022. Said ordinance was duly read, passed, and adopted upon **Final Reading** by a ____ vote of the City Commission of the City of Belleview, Florida at a Public Hearing held on the _____ day of _____, 2022.

CHRISTINE K. DOBKOWSKI
Mayor/Commissioner

Attest:

MARIAH MOODY
City Clerk

Approved as to Form and Legality:

FREDERICK E. LANDT, III
City Attorney

CERTIFICATE OF ADVERTISING

I HEREBY CERTIFY that foregoing Ordinance was advertised for a Public Hearing in the _____ edition of the *Voice of South Marion* newspaper in accordance with Florida Statutes.

MARIAH MOODY
City Clerk