

ORDINANCE NO. 2021-102

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CERTAIN PROVISIONS OF THE CITY OF HIALEAH CODE OF ORDINANCES RELATED TO IMPACT FEES, SPECIFICALLY DIVISION 3 IN CHAPTER 98, ARTICLE VIII ENTITLED FIRE RESCUE IMPACT FEE TO PROVIDE UNIFORMITY AND CONSISTENCY IN ADMINISTRATION AND PROCEDURES APPLICABLE TO IMPACT FEES PURSUANT TO THE CITY OF HIALEAH CONSOLIDATED IMPACT FEE ORDINANCE NO. 2021-059 (JUNE 22, 2021), EFFECTIVE OCTOBER 22, 2021 AND CODIFIED AT HIALEAH, FLA. CODE §§98-2521 THROUGH 98-2584; ADOPTING AN UPDATED SCHEDULE OF FIRE RESCUE IMPACT FEES AND CLASSIFYING USES OF PROPERTY SUBJECT TO SUCH IMPACT FEES; PROVIDING FOR THE USE OF FIRE RESCUE IMPACT FEE MONIES COLLECTED; PROVIDING FOR NOTICE OF THE UPDATED SCHEDULE OF FIRE RESCUE IMPACT FEES; PROVIDING FOR A SAVINGS CLAUSE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATIONS HEREOF; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of September 8, 2021 recommended approval of this ordinance; and

WHEREAS, the City currently imposes park, recreation and open space impact fees, and fire rescue impact fees, pursuant to Chapter 98, Articles VIII and IX, of the Code of Ordinances, City of Hialeah, Florida, respectively, to fund the acquisition of public facilities necessitated by new growth and development; and

WHEREAS, On June 22, 2021, the City adopted Hialeah, Fla. Ordinance 2021-059 consolidating administrative and procedural provisions of its existing impact fee ordinances to consolidate and create consistent and uniform regulations for the administration of current and future impact fees imposed by the City (the "Consolidated Impact Fee Ordinance"); and

WHEREAS, the Consolidated Impact Fee Ordinance also adopted updated rate schedules for the City's park, recreation and open space impact fees and established new police impact fees and transportation impact fees based on the studies prepared by Walter H. Keller, Inc.; and

WHEREAS, by operation of law, the provisions of the Consolidated Impact Fee Ordinance shall become effective and enforceable by the City 90 days from the publication of notice of the new impact fee provisions and new impact fee rates; and

WHEREAS, Chapter 98, Article IX of the Code of Ordinances, City of Hialeah, Florida provides for the imposition of fire rescue impact fees to fund the acquisition of public facilities necessitated by new growth and development; and

WHEREAS, since enactment of the Consolidated Impact Fee Ordinance, the City Council has received and considered the study prepared by Walter H. Keller, Inc. dated August 1, 2021 related to updating the City's fire rescue impact fees; and

WHEREAS, the data and analysis summarized therein support an increase in the rate of fire rescue impact for some property use categories; and

WHEREAS, during the 2021 legislative session, the Florida Legislature enacted House Bill 337 which amended the Florida Impact Fee Act, section 163.31801, Florida Statutes, to limit impact fee increases to no more than 50% of current rates and to provide for implementation of such increases in annual installments; and

WHEREAS, in compliance therewith, any rate increases approved hereunder are (i) limited to no more than 50% of the current fire rescue impact fee, and (ii) will be implemented in four equal annual installments; and

WHEREAS, this Ordinance is adopted for purposes of updating the City's fire rescue impact fees and related rate schedules and providing that the fire rescue impact fees shall be imposed, collected and administered pursuant to the consolidated procedures adopted by Ordinance 2021-059.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: Legislative Findings. The legislative findings set forth in Code Section 98-2523 as established by Hialeah, Fla. Ordinance 2021-059 (June 22, 2021) are incorporated by reference herein and are hereby reaffirmed and adopted in support of the City's fire rescue impact fee and the rates, administration and procedural provisions provided for in this ordinance.

Section 2: Chapter 98, Article VIII entitled Impact Fees, Division 1 - Generally is hereby amended as follows:

CHAPTER 98

* * *

ARTICLE VIII. – IMPACT FEES

* * *

DIVISION 1. – GENERALLY

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Sec. 98-2522. – Definitions.

Notwithstanding the definitions provided for at Section 98-1, when used in this Article VIII, the following terms shall have the following meanings, unless the context otherwise clearly requires in which case, the definition shall be as provided in Section 98-1:

* * *

"Impact Fee Studies" shall mean collectively the Park, Recreation and Open Space Impact Fee Study dated May 21, 2021, the Police Impact Fee Study dated May 21, 2021 and the Transportation Impact Fee Study dated May 21, 2021, each prepared by Walter H. Keller, Inc., and the Fire Impact Fee Study dated August 1, 2021, also prepared by Walter H. Keller, Inc., for the City of Hialeah, Florida, as such studies may amended and supplemented pursuant to Section 98-2533.

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Section 3: Chapter 98, Article VIII entitled Impact Fees, Division 3 – Fire Rescue Impact

Fee is hereby amended and restated in its entirety as follows:

CHAPTER 98

* * *

ARTICLE VIII. – IMPACT FEES

* * *

DIVISION 3. - FIRE RESCUE IMPACT FEE

Sec. 98-2561. – Definitions.

In addition to the general definitions contained in Sec. 98-2522 of this Article, the following terms shall have the following meanings in the application of the Fire Rescue Impact Fee.

"Fire Rescue Facilities" shall mean the Buildings, land, vehicles, apparatus, and equipment used by the City Fire Rescue Department in the suppression and prevention of fires, responses to disasters and the handling of incidents involving hazardous materials.

"Fire Rescue Impact Construction" shall mean land construction designed or intended to permit a use of the land which will contain more Dwelling Units, Buildings or Square Footage than the existing use of land, or to otherwise change

the use of the land in a manner that increases the impact upon the Fire Rescue Facilities.

"Fire Rescue Impact Fee" shall mean the Fire Rescue Impact Fee imposed by the City pursuant to Sec. 98-2551.

"Fire Rescue Impact Fee Land Use Category" shall mean those categories of land use incorporated in the Fire Rescue Impact Fee Rate Schedule in Sec. 98-2551.

"Fire Rescue Impact Fee Study" shall mean the Fire Rescue Impact Fee Study for the City of Hialeah, Florida dated August 1, 2021 prepared by Walter H. Keller, Inc. as such study may be amended and supplemented pursuant to Sec. 98-2532.

Sec. 98-2562. – Imposition.

(a) The data set forth in the Fire Rescue Impact Fee Study which was employed in the calculation of the Fire Rescue Impact Fee rates adopted herein is the most recent and localized data available for the Fire Rescue Facilities.

(b) The Council specifically finds that Fire Rescue Facilities benefit all residents and businesses within the City and, therefore, the Fire Rescue Impact Fee shall be imposed on all Fire Rescue Impact Construction in all incorporated areas of the City.

(c) All Fire Rescue Impact Construction occurring within the City for which a Building Permit is issued on or after February 1, 2022 shall pay the following Fire Rescue Impact Fee rates:

FIRE RESCUE IMPACT FEE RATE SCHEDULE

| Fire Rescue Impact Fee Land Use Category | Fire Rescue Impact Fee | | | |
|--|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| | Effective through 9/30/22 | Effective 10/1/22 through 9/30/23 | Effective 10/1/23 through 9/30/24 | Effective 10/1/24 and after |
| Single-Family Dwelling | \$453.28 per Dwelling Unit | \$453.28 per Dwelling Unit | \$453.28 per Dwelling Unit | \$453.28 per Dwelling Unit |
| Multi-Family Dwelling | \$195.27 per Dwelling Unit | \$216.96 per Dwelling Unit | \$238.66 per Dwelling Unit | \$260.36 per Dwelling Unit |
| Retail | \$39.04 per 1,000 SF of Floor Area | \$43.38 per 1,000 SF of Floor Area | \$47.72 per 1,000SF of Floor Area | \$52.05 per 1,000 SF of Floor Area |
| Office | \$450.53 per 1,000 SF of Floor Area | \$482.86 per 1,000 SF of Floor Area | \$515.19 per 1,000 SF of Floor Area | \$547.52 per 1,000 SF of Floor Area |
| Industrial/Warehouse | \$158.00 per 1,000 SF of Floor Area | \$158.00 per 1,000 SF of Floor Area | \$158.00 per 1,000 SF of Floor Area | \$158.00 per 1,000 SF of Floor Area |

| | | | | |
|--------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| Community Facilities – Institutional | \$368.02 per 1,000 SF of Floor Area | \$368.02 per 1,000 SF of Floor Area | \$368.02 per 1,000 SF of Floor Area | \$368.02 per 1,000 SF of Floor Area |
| Hotel | \$270.56 per 1,000 SF of Floor Area | \$300.62 per 1,000 SF of Floor Area | \$330.68 per 1,000 SF of Floor Area | \$360.75 per 1,000 SF of Floor Area |

(d) Except as otherwise provided in this Article, the Fire Rescue Impact Fee shall be paid directly to the City prior to the issuance of a Building Permit.

Sec. 98-2563. – Individual calculation of fire rescue impact fees.

(a) In the event a Fire Rescue Impact Construction involves a land use not contemplated under the Fire Rescue Impact Fee Land Use Categories set forth in Sec. 98-2551 herein, the Impact Fee Coordinator shall determine the impact to be generated by the proposed Fire Rescue Impact Construction and shall calculate the appropriate Fire Rescue Impact Fees utilizing the methodology contained in the Impact Fee Study. The Impact Fee Coordinator shall utilize as a standard in this determination the impact assumed in the most similar Fire Rescue Impact Fee Land Use Category or any other generally accepted standard source of planning and cost impact analysis.

(a) In the event a Fire Rescue Impact Construction involves mixed use or more than one Fire Rescue Impact Fee Land Use Category, the Impact Fee Coordinator shall calculate the Fire Rescue Impact Fees based upon the impact to be generated by each separate Fire Rescue Impact Fee Land Use Category included in the proposed Fire Rescue Impact Construction.

Sec. 98-2564. – Use of monies.

(a) The Council hereby creates a separate trust account for the Fire Rescue Impact Fees, to be designated as the "Fire Rescue Impact Fee Capital Projects Fund," which shall be established and maintained separate and apart from all other accounts of the City. All Fire Rescue Impact Fees shall be deposited into such trust account immediately upon receipt.

(b) The monies deposited into the Fire Rescue Impact Fee Capital Projects Fund, as established in paragraph (a) above, shall be used solely for the purpose of acquiring, constructing or improving growth-necessitated Capital Facilities for the City Fire Rescue Department, including, but not limited to:

- (1) Land acquisition, including any cost of acquisition;
- (2) Fees for professional services, including but not limited to architecture, engineering, surveying, landscaping, soils and material testing, legal, appraisals, and construction management;
- (3) Design and construction documents;

(4) Site development and on-site and off-site improvements incidental to construction thereto;

(5) Any permitting or application fees necessary for the construction;

(6) Construction and design of new facilities, including related drainage facilities and relocation of utilities;

(7) Landscaping;

(8) Acquisition of apparatus, vehicles or other capital equipment utilized by the City Fire Rescue Department;

(9) Repayment of monies borrowed from any budgetary fund of the City which were used to fund growth necessitated capital improvements to the Fire Rescue Facilities as provided herein, subject to paragraph (c) below;

(10) Costs related to the administration, collection and implementation of the Fire Rescue Impact Fee; and

(11) Payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the City to provide funds to construct or acquire growth necessitated capital improvements or additions to the Fire Rescue Facilities as provided herein, subject to paragraph (c) below; and

(12) Any other expenditures of the Fire Rescue Impact Fee as then allowed by law.

(c) Revenues generated by the Fire Rescue Impact Fee shall not be used, in whole or in part, to pay existing debt for the Fire Rescue Facilities or for previously approved projects related to the Fire Rescue Facilities unless the expenditure is reasonably connected to, or has a rational nexus with, the increased impact generated by Fire Rescue Impact Construction.

(d) The monies deposited into the Fire Rescue Impact Fee Capital Projects Fund shall be used solely to provide improvements or additions to the Fire Rescue Facilities required to serve new growth as projected in the Fire Rescue Impact Fee Study. Funds on deposit in the Fire Rescue Impact Fee Capital Projects Fund shall not be used for any expenditure that would be classified as a maintenance or repair expense. A report will be prepared annually by the City reflecting the collection and expenditures of Fire Rescue Impact Fees by the City during the previous year.

(e) Any Fire Rescue Impact Fee Funds on deposit which are not immediately necessary for expenditure may be held in an interest-bearing account or invested by the City. All income derived from such interest on investments shall be deposited in the Fire Rescue Impact Fee Capital Projects Fund and used as provided herein.

(f) The City may retain up to 1.5% of all Fire Rescue Impact Fees received or the actual costs of collection, whichever is less, as an administrative fee to defray all costs of collection relating to the Fire Rescue Impact Fees.

(g) The Fire Rescue Impact Fees collected pursuant to this Article shall be returned to the then current Owner of the property on behalf of which such fee was paid, if such fees have not been expended or Encumbered prior to the end of the fiscal year immediately following the seventh (7th) anniversary of the date upon which such fees were paid. Refunds shall be made only in accordance with the following procedure:

(1) The then present Owner shall petition the City for the refund within one hundred eighty (180) days following the end of the calendar quarter immediately following seven (7) years from the date on which the fee was received. Failure to submit an application for refund within such period shall constitute a waiver of any right to a refund.

(2) The petition for refund shall be submitted to the Impact Fee Coordinator and shall contain:

a. A notarized sworn statement that the petitioner is the present Owner of the property on behalf of which the Fire Rescue Impact Fee was paid;

b. A copy of the dated receipt issued for payment of the Fire Rescue Impact Fee or such other record as would evidence payment; and

c. A certified copy of the latest recorded deed or a copy of the most recent ad valorem tax bill.

(3) Within three (3) months from the date of receipt of a petition for refund, the Impact Fee Coordinator will advise the petitioner and the Council of the status of the Fire Rescue Impact Fee requested for refund, and if such Fire Rescue Impact Fee has not been expended or Encumbered within the applicable time period, then such Fire Rescue Impact Fee shall be returned to the petitioner. For the purposes of this section, fees collected shall be deemed to be spent or Encumbered on the basis of the first fee in shall be the first fee out.

Secs. 98-2565 – 98-2569. - Reserved.

* * *

Section 4: Savings Clause. Until such date when this Ordinance is effective as provided for in Section 9, the provisions of Article IX, entitled Fire Rescue Impact Fee, in Chapter 98 of the Code of Ordinances of the City of Hialeah, Florida shall remain in full force and effect.

Section 5: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 6: Penalties.

Every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 7: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

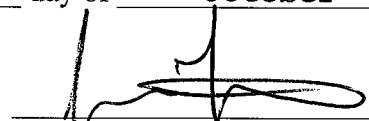
Section 8: Inclusion in Code.

The provisions of this Ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this ordinance shall be renumbered to conform to the uniform numbering system of the Code.

Section 9: Effective Date.

This ordinance and the Fire Rescue Impact Fee Rate Schedule approved herein shall become effective February 1, 2022 subject to: (1) the ordinance being passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto, and (2) compliance with the published notice requirement of Code Section 98-2535 and section 163.31801, Florida Statutes, which require published notice at least ninety (90) days prior to the effective date of an ordinance imposing new or increased impact fees. In the event that ninety days following the publication date is later than February 1, 2022, then the effective date of this ordinance and the Fire Rescue Impact Fee Rate Schedule approved herein shall be such later date notwithstanding anything set forth to the contrary. The City Clerk shall maintain on file with this ordinance a copy of the publisher's affidavit attesting to the date of publication for the notice required hereunder.

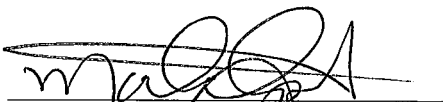
PASSED and ADOPTED this 12 day of October, 2021.




Jesus Tundidor
Council President

Attest:

Approved on this 21 day of October, 2021.

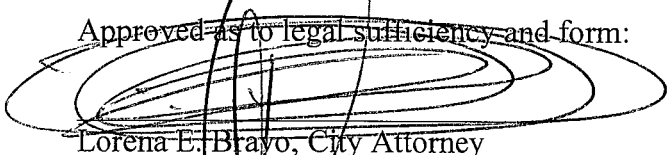


Marbelys Fajó, City Clerk



Mayor Carlos Hernandez

Approved as to legal sufficiency and form:



Lorena E. Bravo, City Attorney

Ordinance was adopted by 6-0-1 vote with Councilmembers, De la Rosa, Garcia-Roves, Hernandez, Perez, Tundidor, and Zogby voting "Yes" and with Council Member Cue-Fuente absent.

Strikethrough indicates deletion. Underline indicates addition.