



City of Gulf Breeze

Memorandum

To: Samantha Abell, City Manager
From: Thomas Lambert, Development Services Manager
Thru: Jason Randell, Director of Public Works
Date: August 23, 2021
Subject: Ordinance No. 04-2021 Amending the City's Code of Ordinances to Create Division 4. under Chapter 19, Article VI, of the City's Code of Ordinances entitled "IMPACT FEES".

REQUEST:

That the City Council hold a Public Hearing on Wednesday, September 8, 2021, and adopt Ordinance No. 04-2021, creating and adding a new Division 4. under Chapter 19, Article VI, of the City's Code of Ordinances, entitled "IMPACT FEES" on Second Reading.

BACKGROUND:

The Florida Impact Fee Act, §163.31801, Florida Statutes, authorizes municipalities to fund capital expansion necessary to provide capacity for new growth and development through the imposition of impact fees. The act has specific requirements for the calculation and assessment of these fees on new development. As part of the utility rate study started in 2020 and recently completed, the City requested Raftelis Financial Consultants to evaluate the City's impact fee assessments, provide recommendations to update fees, and determine the equivalent residential unit basis for commercial impact fee calculation.

The Act requires that the impact fees are based on recent and localized data consistent with the dual rational nexus test required by Florida law, which ensures that fees are proportional and reasonably connected to the need for additional capital facilities and the increased impact generated by new residential and commercial construction.

The study also recommends consolidating the City's two water & sewer operations into a singular utility, the Gulf Breeze Regional Water System.

DISCUSSION:

On August 16, 2021, the City Council voted unanimously to adopt Ordinance No. 04-2021 upon First Reading. The proposed ordinance Ordinance 04-2021 provides an amendment to the code of ordinances to formally codify the City's policy for assessing and administering the impact fee

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for water & sewer on new developments in accordance with the Florida Impact Fee Act. The Raftelis study recommended reducing the fee from \$5,200 to \$4,314 per equivalent residential unit and the flow basis of 225 gallons per day as the average residential usage for the City's utilities. The recommendation is based on analyzing the utility systems' operational data and forecasted Ten-Year Capital Improvement Plan. The ordinance also provides for the re-valuation of the impact fee every five years at a minimum, the method and time of imposing the fee, and actions to collect delinquent impact fee payments.

Because the revised impact fees are less than the current assessment, the City is not required to provide 90 days notice prior to the effective date of the fee adjustment. The effective date of October 1, 2021, was chosen to provide adequate time to adjust the accounting and banking procedures in conjunction with combining the City Water & Sewer fund with the South Santa Rosa Utility System fund.

RECOMMENDATION:

That the City Council hold a Public Hearing on Wednesday, September 8, 2021, and adopt Ordinance No. 04-2021, creating and adding a new Division 4. under Chapter 19, Article VI, of the City's Code of Ordinances, entitled "IMPACT FEES" on Second Reading.

ATTACHED:

[Ordinance No. 04-2021, creating and adding a new Division 4. under Chapter 19, Article VI, of the City's Code of Ordinances, entitled "IMPACT FEES"](#)

ORDINANCE NO. 04-2021

AN ORDINANCE OF THE CITY OF GULF BREEZE, FLORIDA, CREATING A NEW DIVISION 4 UNDER CHAPTER 19, ARTICLE VI., OF THE CITY'S CODE OF ORDINANCES TO ESTABLISH IMPACT FEES TO FUND WATER AND SEWER INFRASTRUCTURE EXPANSION TO SERVE NEW GROWTH; TO REPLACE THE CITY'S CAPACITY FEES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES AND RESOLUTIONS OR PORTIONS THEREOF; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Gulf Breeze owns and operates a water and wastewater system within the City, and also owns and operates the South Santa Rosa Utility System, which provides wastewater services to a designated area of South Santa Rosa County, Florida; and

WHEREAS, the City's water and wastewater systems are collectively known as and shall henceforth do business as the Gulf Breeze Regional Water System (hereinafter referred to as "GBRWS"); and

WHEREAS, the Florida Impact Fee Act, §163.31801, Florida Statutes (the "Act"), authorizes municipalities to fund capital expansion necessary to provide capacity for new growth and development through the imposition of impact fees; and

WHEREAS, the City engaged Raftelis Financial Consultants, Inc. ("Raftelis") to conduct a water and wastewater utility rate study for the City; and

WHEREAS, the Raftelis study included an analysis of the City's impact fees charged for the purpose of raising capital for infrastructure expansion; and

WHEREAS, the City hereby finds, declares, ratifies, and confirms the validity of all past water and sewer connection, capacity and impact fees and that all such funds collected have been appropriately earmarked and limited solely for meeting the costs of expansion; and

WHEREAS, the City nonetheless desires to modify its existing fee structure to implement recommendations made by Raftelis to ensure consistency with the Act, and to provide for a better method of accounting and earmarking of infrastructure capital raised through impact fees; and

WHEREAS, the Raftelis study recommends adjustments to the impact fees currently charged by the City to establish impact fees that are based on recent and localized data analyzed by Raftelis and that are consistent with the dual rational nexus test required by Florida law and which are proportional and reasonably connected to the need for additional capital facilities and increased impact generated by new residential and commercial construction; and

WHEREAS, the impact fees adopted pursuant hereto are less than the impact fees currently charged and therefore the City need not give ninety (90) days notice as required by §163.381801, Florida Statutes, before implementation of the new fees; and

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

SECTION 1 – RECITALS. The foregoing recitals are hereby ratified and confirmed as true and correct and are incorporated herein by this reference.

SECTION 2. – AMENDMENT TO THE CODE OF ORDINANCES TO ADD A NEW DIVISION 4. – IMPACT FEES - UNDER CHAPTER 19, ARTICLE VI., OF THE CODE OF ORDINANCES

This Ordinance creates and adds a new Division 4. under Chapter 19, Article VI, of the City’s Code of Ordinances. The new Division 4 of Article VI of the Code shall be titled “IMPACT FEES” and shall read as follows:

DIVISION 4. – IMPACT FEES.

Sec. 19-325. Short title and authority.

(a) This Division of Article VI of the City of Gulf Breeze Code of Ordinances shall be known and may be cited as "Gulf Breeze Regional Water System (GBRWS) Impact Fee Ordinance."

(b) The city council has the authority to adopt this chapter pursuant to Article VII of the Constitution of the State of Florida, F.S. Ch. 166, and §163.31801, Florida Statutes

Sec. 19-326. Intent and purpose.

(a) The purpose of this ordinance is to ensure that new development pays its proportionate share of the anticipated costs of public facilities necessary to provide water and wastewater services for the new development and redevelopment.

(b) The intent of the council is to ensure that the GBRWS impact fee schedules reflect the most recent and localized data pertaining to growth patterns in the GBRWS’ water and wastewater service areas and to the cost of public facilities necessary to provide water and wastewater services for new development.

Sec. 19-327. Definitions.

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

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

“Applicant” means any person, developer, builder, or entity which requires water and wastewater utility services as a result of development for the benefit of itself or a prospective future occupant.

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

“Gulf Breeze Regional Water System” or “GBRWS” means the City’s wholly-owned enterprise which provides water and wastewater services within the city limits and wastewater service to a certain area of south Santa Rosa County outside of the city limits.

“ERU (Equivalent Residential Unit)” means the basic unit for the calculation of water and wastewater impact fees, which represents a single-family home. ERU for a single-family home is 1.0.

“ERU factor” is a measure of how the water or wastewater demands of a particular non-residential use compare with the water or wastewater demands of a single-family home.

“Owner of record” means the most recent owner of a parcel of property appearing in the Official Records of Santa Rosa County, Florida.

“Sewage or wastewater” means a combination of the water-carried wastes collected from residences, business buildings, institutions, industrial establishments, and other customers of GBRWS and transmitted to the GBRWS’ wastewater system.

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

“Wastewater system or wastewater facilities” means all facilities and interests in real and personal property owned, operated, managed, conditioned, disposed of, and treated by the city and used to provide sewer or wastewater service to customers of the city both within the city limits and in the area outside of the city limits that is served by GBRWS.

“Water system or water facilities” means all facilities and interests in real and personal property owned, operated, managed, conditioned, and treated by the city and used to provide water service to customers of the city both within the city limits and in the area outside of the city limits that is served by GBRWS.

Sec. 19-328. 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 periodic review and update of the impact fee ordinance and methodology, which review and update shall occur at a minimum every five (5) years. Administrative charges, if adopted, shall be set by resolution and shall be based upon incurred and anticipated costs to create, administer, update and manage the impact fee system and shall not exceed actual costs of the city. Administrative charges, if collected, shall not be deposited in any impact fee capital fund accounts.

Sec. 19-329. Impact fee capital fund accounts and use of capital fund account monies.

(a) There are established capital fund accounts for impact fees, to be designated as the "GBRWS water impact fee capital fund account" and "GBRWS wastewater impact capital fund account." Each capital fund account for impact fees shall continue to be maintained separate and apart from all other accounts of the city. The monies deposited into the impact fee capital fund accounts shall be used solely for the purposes as set forth in this chapter.

(b) Funds on deposit in the GBRWS impact fee capital fund accounts established hereunder shall not be used for any expenditure that would be classified as an operational expense, a maintenance expense, or a repair expense.

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

Sec. 19-330. Paid impact fees are assignable and transferable.

Credits for payment of the impact fees established hereunder are assignable and transferrable from one development or parcel to any other that receives benefits from the improvement or payment that generated the credit.

Sec. 19-331. 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. Non-binding estimates are for the sole benefit of the prospective applicant and neither bind the city nor preclude it from making amendments or revisions to any provisions of this chapter. No vested rights, legal entitlements, or equitable estoppel accrue by reason of a non-binding

estimate. A non-binding fee estimate does not constitute a final decision and may not be appealed pursuant to this chapter.

Sec. 19-332. Administrative rules and policies.

The city manager is hereby authorized to adopt administrative rules and policies to implement the provisions of this ordinance as the city manager deems necessary and appropriate.

Sec. 19-333. Appeals.

(a) Any person who disagrees with a decision under or interpretation of this ordinance may appeal to the city manager 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 manager 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 manager or designee may appeal to the city council by filing a written notice of appeal with the city manager's office setting forth concisely the decision appealed within ten (10) days after the date of the city manager's decision. The appeal shall be set for the next available city council meeting for consideration. The city council's written decision and shall constitute final administrative review.

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

Sec. 19-334. Collection of impact fees; penalties and liens against property.

(a) Impact fees shall be due within ten (10) days after issuance of the building permit for the property that is subject to the fee, or in accordance with a schedule set forth in a development agreement between the fee payer and the city. However, in no event shall payment of impact fees be required prior to issuance of the building permit.

(b) Failure to pay impact fees as required hereunder to satisfy the impact of development may result in the amount due becoming a lien against the property. GBRWS shall provide written notice of overdue impact fees by personal service, certified, return receipt requested United States mail or Federal Express or other equivalent overnight letter delivery company. Upon failure to pay the overdue impact fees within thirty (30) days of the date of the notice, a notice of lien shall be served pursuant to Florida law.

Sec. 19-335. Adoption of impact fee study.

(a) The city council hereby adopts by reference the study entitled "City of Gulf Breeze Water and Wastewater Rate Study," dated August 2, 2021, as prepared by Raftelis

Financial Consultants, Inc. as it relates to impact fees and the computation and allocation of the capital costs to provide water and wastewater service to GBRWS customers.

(b) The city council finds there is a reasonable connection, or rational nexus, between the need for GBRWS capital water and wastewater facilities to serve customers inside and outside the city and the growth in population anticipated in those areas. In addition, the city council finds there is a reasonable connection, or rational nexus, between the anticipated expenditures of the water and wastewater impact fees collected and the benefits accruing to anticipated new development.

Sec. 19-336. Imposition of water impact fees.

(a) Any applicant who seeks to develop or redevelop land or make improvements to real property that will require present or future GBRWS water services inside or outside the city shall be required to pay a water impact fee in the manner and amount established and computed pursuant to this section.

(b) The water impact fees for GBRWS residential and commercial developments shall be based upon meter size as follows:

3/4 inch meter	\$ 846.00
1 inch meter	\$ 891.00
1-1/2 inch meter	\$1,247.00
2 inch meter	\$1,647.00
3 inch meter	\$2,449.00
4 inch meter	\$3,295.00
6 inch meter	\$4,898.00

Sec. 19-337. Imposition of wastewater impact fees.

(a) Any applicant who seeks to develop or redevelop land or make improvements to real property that will require present or future GBRWS wastewater services inside or outside the city shall be required to pay a wastewater impact fee in the manner and amount established and computed pursuant to this article.

(b) The wastewater impact fee for residential and commercial developments shall be \$4,314.00 per equivalent residential unit (ERU).

(c) The equivalent residential unit (ERU) for commercial wastewater impact fees will be calculated using the total estimated daily sewage flows set forth in Table I of Florida Department of Health Rule F.A.C. 64E-6.008, as may be amended from time to time. The total daily estimated flow set forth in the Table for the type of proposed commercial facility shall be divided by the residential average daily consumption of 225

gallons per day to calculate the ERU. The impact fee shall be \$4,314.00 times the ERU calculated using this method.

(d) The applicant may provide twelve (12) months of historic sewage flow data from two facilities of similar size and type as the basis for an appeal, in accordance with section 19-333 of this article. If the appeal is granted and the impact fees charged are based on the submitted historic data, the city reserves the right to reevaluate the facility after one (1) year of active wastewater service and to assess additional impact fees if the facility's usage is greater than the historic data provided.

Sec. 19-338. Disposition of revenues imposed by impact fees.

All impact fee revenues expended from the City of Gulf Breeze's respective impact fee funds for water and wastewater capital funds shall be used for the purpose of providing growth necessitated capital improvements and constructing, extending, oversizing, or separating transmission improvements, or constructing new additions to the city's transmission system, distribution or transmission systems or part thereof as authorized by the city council, including, but not limited to expenses for: (i) design or construction plan preparation; (ii) permitting and related fees; (iii) land or system acquisition, including acquisition or condemnation costs; (iv) construction and design of buildings, facilities, or improvements and additions thereto; (v) design and construction of drainage facilities reasonably required by, or convenient to, the construction of transmission, facilities, or improvements and additions thereto; (vi) relocating utilities required by the construction of transmission, facilities, or improvements and additions thereto; (vii) construction management, inspection, or both; (viii) surveying, soils and material testing, and the evaluation and development of reuse water resources and supplies; (ix) acquisition of equipment necessary or convenient to expand the transmission system; and (x) payment of principal and interest, reserves and costs of issuance under any bonds or other indebtedness issued by the city to fund growth impacted improvements, and additions to the transmission system. No part of such water or wastewater impact fee revenues shall be budgeted or used for the operating expenses of the water or wastewater system or for any other purpose not related to providing capital improvements for the utility systems to which the funds are dedicated.

Sec. 19-339. Controlling authority.

If there is any inconsistency between the provisions of this ordinance and Florida statutory provisions on impact fees or other provisions of applicable Florida state law, the Florida statutory provisions and other applicable Florida state law shall govern.

Sec. 19-340. – 19-349. RESERVED

SECTION 3 – SEVERABILITY

If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by any court to be unconstitutional, inoperative, invalid, or void, such holding shall not in any manner affect the validity of the remaining portions of this Ordinance.

SECTION 4 – CONFLICT

The provisions of this Ordinance shall be deemed to control and prevail over any ordinance, resolution, policy, or portion thereof in conflict with the terms hereof.

SECTION 5 – CODIFICATION

It is the intention of the City Council that the provisions of this Ordinance shall be codified.

SECTION 6 – EFFECTIVE DATE

This Ordinance shall become effective upon passing after the second reading by the City Council.

PASSED ON THE FIRST READING ON THE 16TH DAY OF AUGUST 2021.

ADVERTISED ON THE 26TH DAY OF AUGUST 2021.

PASSED ON THE SECOND READING ON THE _____ DAY OF _____,
2021.

CITY OF GULF BREEZE, FLORIDA

By: _____
Cherry M. Fitch, Mayor

ATTEST

Leslie A. Guyer, CMC, City Clerk