

ORDINANCE NO. O-2-21

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF PALM BEACH SHORES, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 28. FINANCE. AT ARTICLE III. IMPACT FEES. BY REPEALING ALL PROVISIONS RELATED TO THE TOWN POLICE PROTECTION IMPACT FEE; PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUBSECTION OF CHAPTER 28. FINANCE. SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, impact fees are imposed by local governments to fund infrastructure and expand local services in order to meet the demands caused by new growth and development.; and

WHEREAS, the Florida Legislature, through the enactment of §§ 163.3202(3) and 163.31801, *Florida Statutes*, encourages the use of impact fees by local governments to fund infrastructure necessitated by new growth and development; and

WHEREAS, the Town of Palm Beach Shores, as duly authorized by §§ 163.3202(3) and 163.31801, *Florida Statutes*, has enacted the "Palm Beach Shores Impact Fee Ordinance" at Chapter 28, Article III, Town Code; and

WHEREAS, the "Palm Beach Shores Impact Fee Ordinance" currently has four (4) public service categories that are funded by impact fees to accommodate new development within the Town – fire protection, police protection, parks and recreation, and public buildings; and

WHEREAS, in 2019, the Town of Palm Beach Shores completed a merger of the Town's Police Department with the Palm Beach County Sheriff's Office; and

WHEREAS, since this merger with the Palm Beach County Sheriff's Office, District 20 of the County Sheriff's Office now provides all law enforcement services for the Town and its citizens; and

WHEREAS, now that the Palm Beach County Sheriff's Office District 20 provides all police protection services for the Town of Palm Beach Shores and its citizens, the Town Commission of the Town of Palm Beach Shores desires to no longer collect police protection impact fees within the Town; and

WHEREAS, the Town Commission of the Town of Palm Beach Shores desires to amend Palm Beach Shores Impact Fee Ordinance" at Chapter 28, Article III, Town Code to repeal all provisions related to the Town's police protection impact fee; and

WHEREAS, the Town Commission of the Town of Palm Beach Shores believes that these revisions to the Town Code of Ordinances are in the best interests of the Town of Palm Beach Shores and will promote the public health, safety and welfare of its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF PALM BEACH SHORES, FLORIDA, AS FOLLOWS:

Section 1: Chapter 28. Finance. of the Code of Ordinances of the Town of Palm Beach Shores is hereby amended at Article III. Impact Fees. by repealing all provisions related to the Town police protection impact fee; providing that Chapter 28. Article III. shall hereafter read as follows:

ARTICLE III. IMPACT FEES

Sec. 28-40. Legislative findings.

The Town Commission of the Town of Palm Beach Shores finds, determines and declares that:

- (a) Palm Beach Shores must expand its fire protection, ~~police protection~~, parks and recreation facilities, and public facilities in order to maintain current standards if new development is to be accommodated without decreasing current standards. This must be done in order to promote and protect the public health, safety and welfare;
- (b) The Florida Legislature, through the enactment of F.S. §§ 163.3202(3) and 163.31801, has sought to encourage Palm Beach Shores to enact impact fees;
- (c) The imposition of impact fees is one of the preferred methods of ensuring that development bears a proportionate share of the cost of fire protection, ~~police protection~~, parks and recreation facilities, and public facilities necessary to accommodate such development. This must be done in order to promote and protect the public health, safety and welfare;
- (d) Each of the types of land development described in section 28-46 hereof, will create a need for the construction, equipping, or expansion of fire protection, ~~police protection~~, parks and recreation, and public building facilities.

- (e) The fees established by section 28-46 are derived from, are based upon, and do not exceed the costs of providing additional capital facilities necessitated by the new land developments for which the fees are levied.
- (f) The report entitled "Technical Memorandum on the Calculation of Parks & Recreation, Fire & Rescue, Police Protection and Public Facilities Impact Fees, Palm Beach Shores, Florida, Impact Fee Methodology", dated October 17, 2005, containing the most recent and localized data available to the town, sets forth a reasonable methodology and analysis for the determination of the impact of new development on the need for and costs for additional fire protection, ~~police protection~~, parks and recreation, and public facilities in Palm Beach Shores.

Sec. 28-41. Short title, authority and applicability. [left in full force and effect as previously adopted.]

Sec. 28-42. Intent and purposes.

- (a) This article is intended to assist in the implementation of the Palm Beach Shores Comprehensive Plan.
- (b) The purpose of this article is to regulate the use and development of land so as to assure that new development bears a proportionate share of the cost of capital expenditures necessary to provide fire protection, ~~police protection~~, parks and recreation, and public buildings in Palm Beach Shores.

Sec. 28-43. Rules of construction. [left in full force and effect as previously adopted.]

Sec. 28-44. Definitions.

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

"Feepayer" is a person applying to the Town of Palm Beach Shores for the issuance of a building permit.

"Building" is defined as in the Town Zoning Ordinance.

"*Permit*" is the approval issued by Palm Beach Shores that authorizes the construction, placement or expansion of a building, dwelling, or other structure on a site. See also the definition of "permit" in chapter 14 of the Town Code of Ordinances.

"*Capital improvements*" are land, improvements to land, buildings, expansions of buildings, contents of buildings, vehicles, equipment, weapons, and communications equipment, all with an expected use life of three years or more, that expand the capacity of Palm Beach Shores' ability to serve the need of new development.

"*Certificate of occupancy*" is an official document evidencing that a building satisfies the requirements of the Town of Palm Beach Shores for the occupancy of a building.

"*Town administrator*" means the town administrator or other municipal official(s) designated by the mayor to carry out the administration of this article.

"*Development order*" means a regulatory final site plan approval by Palm Beach Shores pertaining to the development of land as provided in chapter 14 of the Town of Palm Beach Shores Code of Ordinances or any other approval which meets the definition of same as set forth at F.S. § 163.3164(15)(7).

"*Fire protection*" is the provision of all fire protective and rescue services by the Town of Palm Beach Shores.

"*Non-residential floor area*" is the total area of all floors of a non-residential building as measured pursuant to Pf. 2.23 of the Town Zoning Code.

"*Parks and recreation*" is the provision of public parks and recreational areas and facilities within the Town of Palm Beach Shores.

~~"*Police protection*" is the provision of police protective services and law enforcement within the Town of Palm Beach Shores.~~

"*Private park or recreational facility*" is any park or recreational facility which is not owned by or dedicated to any governmental entity.

"*Public facilities*" are the buildings owned or leased by the Town of Palm Beach Shores for the purpose of providing public services within the Town of Palm Beach Shores excluding buildings for fire protection and police protection. "Public buildings" includes the land on which those buildings sit, improvements to land, and equipment and contents of those buildings.

"Residential air conditioned area" is the floor area of a residential structure that is designed to be provided with air conditioning and/or heat and is not gross floor area of the structure.

"Tourist" refers to hotel, motel and multi-family rental properties.

Sec. 28-45. Imposition of impact fees. [left in full force and effect as previously adopted.]

Sec. 28-46. Computation of the amount of impact fees.

- (a) At the option of the feepayer, the amount of impact fees due may be determined by the following fee schedules at the time the certificate of occupancy is requested.

TABLE 8
NET IMPACT COSTS
PALM BEACH SHORES

	Residential Per Foot of Air Conditioned Area	Tourist per Foot of Floor Area	All Other per Foot of Floor Area
Parks	\$0.26	\$0.26	0
Fire	\$0.34	\$0.34	\$0.34
Police	\$0.35	\$0.35	\$0.35
Public Facilities	\$0.65	\$0.65	\$0.65
Total	\$1. <u>25</u> 60	\$1. <u>25</u> 60	\$ <u>0.99</u> 1.34

[Paragraphs (1) - (3) left in full force and effect as previously adopted.]

[Subsection (b) left in full force and effect as previously adopted.]

Sec. 28-47. Payment of fee. [left in full force and effect as previously adopted.]

Sec. 28-48. Impact fee trust funds and accounting requirements established.

(a) There is hereby established an impact fee trust fund for the deposit of the following impact fees:

- (1) A fire protection impact fee.
- ~~(2) A police protection impact fee.~~
- (2) ~~(3)~~ A parks and recreation impact fee.
- (3) ~~(4)~~ A public buildings impact fee.

[Subsections (b) – (c) left in full force and effect as previously adopted.]

Sec. 28-49. Use of impact fees.

(a) Impact fee receipts collected may only be expended on acquiring, equipping, and/or making capital improvements to facilities under the jurisdiction of Palm Beach Shores, Palm Beach County, or the State of Florida, and shall not be used for maintenance or operations.

- (1) Fire protection impact fee receipts may only be used for fire protection capital improvements.
- ~~(2) Police protection impact fee receipts may only be used for police protection capital improvements.~~
- (2) ~~(3)~~ Parks and recreation impact fee receipts may only be used for park and recreation capital improvements.
- (3) ~~(4)~~ Public buildings impact fee receipts may only be used for public buildings capital improvements.

[Subsections (b) – (e) left in full force and effect as previously adopted.]

Sec. 28-50. Refund of fees paid. [left in full force and effect as previously adopted.]

Sec. 28-51. Exemptions and credits.

[Subsection (a) left in full force and effect as previously adopted.]

- (b) *Credits.* Feepayers may receive credit against impact fees otherwise due for land and/or capital improvements. Land or capital improvements may be offered by the feepayer as total or partial payment of a required impact fee. The offer must request or provide for an impact fee credit. If the town administrator accepts such an offer, whether the acceptance is before or after the effective date of this article, the credit shall be determined and provided in the following manner:

[Paragraphs (1) - (6) left in full force and effect as previously adopted.]

- (7) Credits for donations may be used only for that type of impact fee;
- i. Credit for fire protection land or capital improvement donations may only be used to against fire protection impact fees otherwise due;
 - ~~ii. Credit for police protection land or capital improvement donations may only be used to against police protection impact fees otherwise due;~~
 - ii. ~~iii.~~ Credit for park or recreation land or capital improvement donations may only be used to against parks and recreation impact fees otherwise due;
 - iii. ~~iv.~~ Credit for public building land or capital improvement donations may only be used to against public building impact fees otherwise due;
- Any claim for credit must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.

[Subsection (c) left in full force and effect as previously adopted.]

- (d) *Credit for private fire protection, ~~police protection~~ and private places of public assembly or use.* No credit against impact fees otherwise due will be provided for the private provision of fire protection or rescue, ~~police protection~~ or places of public assembly or usage.

[Subsection (e) left in full force and effect as previously adopted.]

Secs. 28-52.—28-56. [left in full force and effect as previously adopted.]

Section 2: Each and every other section and subsection of Chapter 28. Finance. shall remain in full force and effect as previously adopted.

Section 3: All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

Section 4: Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

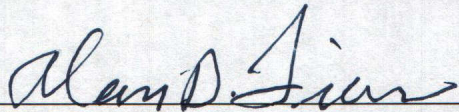
Section 5: Specific authority is hereby granted to codify and incorporate this Ordinance into the existing Code of Ordinances of the Town of Palm Beach Shores.

Section 6: This Ordinance shall become effective immediately upon passage.

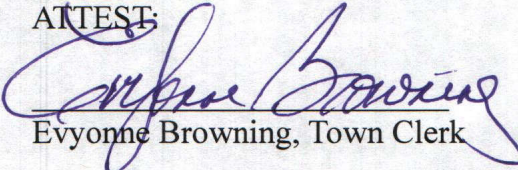
FIRST READING this 24th day of May 2021.

SECOND READING this 23rd day of August 2021

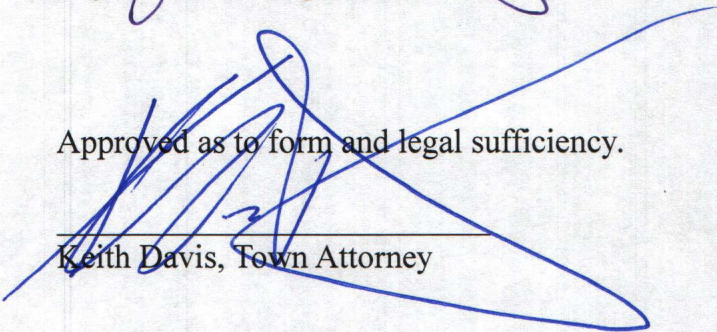
TOWN OF PALM BEACH SHORES


Alan Fiers, Mayor

ATTEST:


Evyonne Browning, Town Clerk

Approved as to form and legal sufficiency.


Keith Davis, Town Attorney

(Seal)

