ORDINANCE NO. 34-26

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF DELRAY BEACH, CHAPTER 5, "SUBDIVISION REGULATIONS," ARTICLE 5.3 "DEDICATION AND IMPACT REQUIREMENTS" SECTION 5.3.2 "PARK LAND DEDICATION REMOVING SUBSECTION (C) "IMPACT FEE REQUIRED" TO MOVE THE PARKS IMPACT FEE TO A NEW ARTICLE 8.1 "IMPACT FEES"; BY AMENDING CHAPTER 8, SPECIAL IMPLEMENTATION PROGRAMS TO ENACT A NEW ARTICLE 8.1, "IMPACT FEES", INCREASING THE PARKS IMPACT FEE AND ESTABLISHING IMPACT FEES FOR MUNICIPAL, POLICE, FIRE RESCUE, WATER, WASTEWATER, AND STORMWATER FACILITIES; ADOPTING THE CITY OF DELRAY BEACH IMPACT FEE JUSTIFICATION STUDY; AND ESTABLISHING THE IMPACT FEE SCHEDULE; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, impact fees are an authorized method to collect from new development a one-time payment for proportionate share capital improvements necessitate by such development; and

WHEREAS, the City of Delray Beach previously established a Parks impact fee of $500 per dwelling unit; and

WHEREAS, the City of Delray Beach has not revised the Parks Impact Fee since 1992; and

WHEREAS, the City of Delray Beach engaged the firm of DTA Public Finance, Inc. ("DTA") to update the City's existing impact fee program by preparing a new justification study; and

WHEREAS, the purpose of the City's review of its impact fees ordinance and fee schedule is to ensure that new development pays its fair share of the cost of facilities necessitated by such development; and

WHEREAS, this Ordinance, among other things, includes recommendations made by DTA to assess impact fees for new residential and nonresidential development; and

WHEREAS, the City Commission desires to adopt an Impact Fee Schedule, consistent with Florida Statutes governing the adoption of new impact fees and the increase of existing impact fees; and

WHEREAS, pursuant to Florida Statutes 163.3174(4), the Planning and Zoning Board for the City of Delray Beach, sitting as Local Planning Agency, considered this Ordinance at a public hearing on June 15, 2026, and voted 6 to 0 to recommend that the proposed text amendments be approved with amendments,

finding that the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The recitations set forth above are true and correct and incorporated herein as if fully restated.

Section 2. Chapter 5, "Subdivision Regulations," of the Land Development Regulations of the Code of Ordinances of the City of Delray Beach, Florida, Article 5.3 "Dedication and Impact Requirements" Section 5.3.2 "Park land dedication" shall be amended as follows:

Sec. 5.3.2. Park land dedication.

(A) ***Dedication required.*** Whenever a development is proposed upon land which is designated for park purposes in the Comprehensive Plan or required to be dedicated pursuant to policies of the Plan, dedication of such land shall be made prior to approval of any development request on such property with the exception of annexation and or zoning. Dedication shall be made through platting.

(B) ***Limitation on dedication requirement.*** However, the degree to which dedication without compensation is imposed shall be limited to the following:

(1) In a single family subdivision with lot sizes of 12,500 square feet or less, an amount of land equal to eight percent of the total subdivision shall be dedicated

(2) In a single family subdivision with lot sizes in excess of 12,500 square feet , an amount of land equal to five percent of the total subdivision shall be dedicated.

(3) For multiple family projects, planned residential developments (PRD), hotels, motels, or resort dwelling developments, such dedication shall be at the rate of five acres per 1,000 persons projected to reside in the proposed development. For the purpose of this Section, an occupancy factor of 2.31 persons per unit shall be used and there shall be no vacancy factor.

~~(C) ***Impact fee required.*** Whenever a development is proposed upon land which is not designated for park purposes in the Comprehensive Plan, an impact fee assessed for the purpose of providing park and recreational facilities shall be imposed.~~

~~(1) The amount of the fee shall be $500.00 per dwelling unit regardless of the size or occupancy of the unit.~~

~~(2) The fee shall be assessed against the following type of development:~~

~~(a) single family homes,~~

~~(b) duplexes,~~

~~(c) multiple family dwelling units,~~

~~(d) motels, hotels, residential inns,~~

~~(e) resort dwelling units.~~

~~(3) The impact fee for single family dwellings shall be imposed and collected upon first development of the lot and collected at the time of issuance of the building permit. Upon redevelopment of a lot, an impact fee credit shall be given for the demolition of any structure built after February 23, 1982. No credit shall be given for structures built prior to February 23, 1982 and a park impact fee is due upon issuance of a building permit.~~

~~(4) The impact fee for all other types of development shall be imposed for each structure/dwelling unit and collected at the time of issuance of a building permit. If such development involves previously permitted and inhabited dwelling units which must be demolished that were constructed after February 23, 1982, a credit for each dwelling unit demolished shall be applied. If the structure/dwelling unit to be demolished was constructed before February 23, 1982, no credit shall be issued and a park impact fee will be required at issuance of a building permit. If the development involves a lot that has been subdivided since the initial impact fee was paid, a new impact fee shall be imposed for each new structure/dwelling unit on each new lot.~~

Section 3. Chapter 8, "Special Implementations Programs," of the Land Development Regulations of the Code of Ordinances of the City of Delray Beach, Florida, Section shall be amended by enacting a new Article 8.1, "Delray Beach Development Impact Fee Ordinance," in its entirety as follows:

ARTICLE 8.1 – IMPACT FEES.

Sec. 8.1.1. - Short Title.

This Article shall be known and cited as the "Delray Beach Development Impact Fee Ordinance."

Sec. 8.1.2 - Findings.

The City Commission of the City of Delray Beach, Florida hereby finds and declares that:

(A) The City of Delray Beach, Florida, (hereinafter referred to as the "City") has experienced new development, including redevelopment, and population growth during recent decades, which development has strained the adequacy of existing sources of funds to provide public facilities to meet the demands created by new development and redevelopment.

(B) The Comprehensive Plan for Delray Beach, as adopted and amended by the City Commission, and census and population studies predict that growth will continue and will create increased demand for public facilities needed to accommodate new development.

(C) The City's Comprehensive Plan and the capital improvements plan, as amended from time to time, identify the need for additional public facilities necessary to ensure the health, safety and welfare of the residents and property owners in the City. These needs include additional facilities and equipment for parks and recreation, municipal buildings and facilities, law enforcement, fire protection and emergency services, water and wastewater, and stormwater management, which are essential responsibilities under the police power authority of the City.

(D) Impact fees are a reasonable method of ensuring that new development pays a proportionate share of the capital costs of public facilities needed to accommodate new development. It is the intent of this Article that new development in the City pay a proportionate share of the capital costs related to the provision of public facilities needed to accommodate the demand generated by new development.

(E) Funds collected pursuant to this Article shall be expended only on the type of public facility for which the fees are collected and only for public facilities which have a "rational nexus" to and provide benefit to new development on which fees are imposed pursuant to this Article. Funds collected pursuant to this Article shall not be expended to maintain or repair existing facilities or to correct existing deficiencies in facility systems needed to serve existing development.

(F) At advertised meetings of the City Commission, the City Commission considered projected new development in the City, the projected need for additional public facilities and capital equipment due to projected new development, the increased costs of providing public facilities and capital equipment needed to accommodate the projected new development, and the need to adopt impact fees to help provide additional public facility capacity and capital equipment needed due to new development.

(G) The City Commission hereby finds and declares that all new development, as defined herein, within the City generates an increased demand for system improvements for municipal, police, fire and EMS, parks and recreation, and stormwater management facilities. The City Commission hereby finds and declares that the system improvements to be funded by the impact fees imposed herein will provide benefit to all new development in the City.

(H) The City Commission hereby finds and declares that the impact fees imposed pursuant to this Article comply with the requirements of F.S. § 163.31801. Specifically, the requirements of F.S. § 163.31801, are fulfilled as follows: the impact fees imposed herein are calculated based on the most recent and localized data, the established separate accounts and accounting procedures provide for appropriate accounting and reporting of impact fee collections and expenditures, any administrative charge that may be adopted by the City Commission will reflect actual costs to the City for the creation, administration and maintenance of the impact fee system, notice was provided no less than 90 days before the effective date of this Article, and audits of the City performed pursuant to F.S. § 218.39 will include an affidavit from the Chief Financial Officer of the City stating that the City has complied with F.S. § 163.31801.

(I) The City Commission has considered the matter of funding additional public facilities, the need for which is reasonably related to new development and finds that the imposition of impact fees is critical to the City's ability to provide such facilities. The City Commission hereby finds and declares that the impact fees imposed herein are needed to protect the public health, safety and welfare of residents and property owners in the City and are a reasonable exercise of the City's police power. Therefore, the City Commission deems it essential to adopt this Article as hereinafter set forth.

(J) The City Commission has determined that certain types of development, to be defined in a separate resolution or ordinance, fulfill a public purpose and may be encouraged through impact fee incentives, including the deferral or waiver of impact fees.

Sec. 8.1.3. - Intent.

(A) This Article is intended to require that new development helps address the need for capital facility capacity to accommodate the demand generated by new development. New development shares this burden by paying a proportionate share of the reasonably anticipated capital costs of public facilities needed to accommodate the demand for additional facilities created by new development as well as by complying with other appropriate development regulations and approval conditions. This Article shall not be construed to authorize imposition of impact fees for public facility needs attributable to existing development.

(B) The development impact fees imposed pursuant to this Article are based upon the data and calculation methodology incorporated in the "Development Impact Fee Justification Study" by DTA dated January 28, 2026.

Sec. 8.1.4. - Authority.

In the creation of the impact fees, the City Commission is exercising its charter home rule powers and its local authority, including police powers, pursuant to Article VII, sections 1(f), 1(g) and 2(b) of the Florida Constitution; the Municipal Home Rule Powers Act, F.S. ch. 166, as amended. The aforementioned provisions authorize and require the City: to provide and finance public facilities; to provide for the health, safety and general welfare of the City; to coordinate the provision of adequate public facilities with land development; and to implement its comprehensive plan. Furthermore, the Local Government Comprehensive Planning and Land Development Regulation Act, F.S. § 163.3202(3), encourages the use of innovative land development regulations, including impact fees, and F.S. § 166.04151 specifically authorizes municipalities to adopt and maintain in effect any law, ordinance, rule, or other measure that is adopted for the purpose of increasing the supply of affordable housing. The City Commission may, by separate resolution or ordinance, provide incentives for development that is determined by the City Commission to fulfill a public purpose through the deferral or waiver of payment of impact fees imposed under this Article. The provisions of this Article shall not be construed to limit the scope of the City's power necessary to accomplish these purposes.

Sec. 8.1.5. Definitions.

As applied in this Article, the following words and terms shall have the following meaning, unless another meaning is clearly intended:

Administrative charge shall mean a charge that, as established by resolution of the commission, shall be collected in addition to the applicable impact fee amount for expenses associated with the establishment, amendment, periodic update and administration of the impact fee system and ordinance. The administrative charge shall be reviewed as part of the annual review provided for in Section 8.1.10 or at such other times as deemed necessary based upon information submitted by the City Manager. The administrative charge is in addition to the impact fee and shall be payable at the time of building permit issuance. The administrative charge shall be for the purpose of defraying expenses of creating and maintaining the impact fee system, including but not limited to costs associated with consultants, administrative staff, equipment, software, and other expenses incurred in establishing, administering, updating, managing and maintaining the impact fee system.

Applicant shall mean the property owner, or duly designated agent of the property owner, of land on which a building permit is requested and impact fees are due pursuant to this Article, or shall mean the property owner, or duly designated agent of the property owner, of land identified in an agreement pursuant to Section 8.1.12(C) where such property owner or agent is responsible for the provision of system improvement(s).

Affordability controls shall mean restrictions placed on dwelling units by which the price of such units and/or the income of the purchaser or lessee will be restricted in order to ensure that the units remain affordable to very low, low, or moderate income households.

Appropriation shall mean funds identified in the CIP with the legal authority to expend such funds up to a certain dollar amount.

Building permit shall mean the permit required for new construction, remodeling, redevelopment and additions pursuant to the Land Development Regulations of the City, as amended. If no building permit is required for the construction or occupation of a structure then building permit shall be deemed to include any permit or other form of final City approval for the construction, change of use or occupancy of a structure, including but not limited to the conversion of hotel, motel or other lodging, with or without cooking facilities, to condominium or other residential use. The term "building permit," as used in this Article, shall be deemed to include a mobile home installation permit issued pursuant to the City Building Code or any equivalent permit or approval.

Capital improvements program (CIP) shall mean the five-year schedule of capital improvements adopted by the City annually as part of the City budget process.

Capital improvement projects shall mean all projects for which funds are appropriated in the CIP. Capital improvement projects, including, but not limited to, capital equipment, land, facilities and site improvements, that are funded in whole or in part with impact fee funds.

City Commission shall mean the City Commission of the City of Delray Beach, Florida.

Collecting agency shall mean the City department or official authorized to issue building permits.

Development shall have the meaning given it in F.S. § 380.04, as may be amended from time to time, subject to exclusions contained in this Article.

Dwelling unit shall mean one or more rooms connected together, designed to be occupied by one family, constituting a separate, independent housekeeping establishment and physically separated from any other dwelling unit that may be in the same structure, and which contains independent sanitation, living, cooking and sleeping facilities.

Equivalent Dwelling Unit (EDU) is a standardized measure used to estimate and allocate water or wastewater demand based on the average usage of a typical single-family residential dwelling. One EDU generally represents the average flow or demand generated by one single-family home, while commercial or multifamily properties are assigned a proportional number of EDUs to reflect their projected usage.

Fire and EMS system improvement means system improvements that add capacity to the City's fire and rescue system, including facilities, fire suppression equipment, and emergency medical services equipment.

Governmental uses shall mean buildings or facilities owned and operated by the United States of America or any agency thereof, a sovereign state or nation, the State of Florida or any agency thereof, a county, a special district, a school district, a municipal corporation, or a charter school organized and approved as a public school under F.S. § 228.056.

Gross floor area (gfa) shall mean the total square footage of a building measured in feet from the exterior faces of exterior walls or other exterior boundaries of the building, excluding parking areas within the interior of the building and open air element, such as porches and balconies. If a site contains multiple buildings, the gross floor area shall be computed separately for each building. The definition of gross floor area in the ITE trip generation manual shall be used to resolve any questions regarding calculation of gross floor area.

Historic properties shall mean individually designated properties or structures and contributing structures within a historic district.

Impact fee shall mean a monetary exaction imposed prior to building permit issuance and calculated based upon a new development's proportionate share of the average cost of capital improvements needed to address the additional capital facility capacity and equipment needed to accommodate the demand for public facilities created by new development.

Municipal system improvement means improvements that add capacity to the City's administrative office space, capital equipment, and other capital expenditures for the general governmental functions of the City.

New development shall mean the carrying out of any building activity or the making of any material change in the use of a structure or land that requires the issuance of a building permit, as defined in this Article, and which generates demand for capital facilities over and above the previously existing documented use or development of the structure or land. New development shall include changes in the use of a structure, for example the conversion of a structure from lodging (with or without cooking facilities) to residential use, whether or not physical changes are required to an existing structure. New development excludes governmental uses as herein defined.

Nonresidential development shall mean all new development other than residential development and governmental uses as herein defined. Nonresidential development includes, but is not limited to, industrial, manufacturing, warehousing, mini-warehousing, lodging (with or without cooking facilities), schools and daycare, hospital, nursing home, general office, medical-dental office, business park, retail and commercial uses.

Parks system improvement means land, capital improvements, capital facilities and capital equipment that add capacity to the City park system, including parks and open spaces with City-wide service areas and associated improvements as well as recreation facilities and associated improvements.

Police system improvement means land, capital improvements, capital facilities, and capital equipment that add capacity to the City's police system.

Project costs shall mean amounts spent or authorized to be spent in connection with the acquisition, planning, legal, fiscal, economic, engineering, administrative services, financing, construction, equipping, development, and other costs associated with a public facility project.

Residential development shall mean development of a structure or structures solely dedicated to the housing of a person or persons to live, cook and/or sleep within on a permanent basis, as either owner, renter or lessee provided, however, that adult congregate living facilities, retirement homes, nursing homes and other structures operated by a social service organization to provide residential care to children, the aged, the destitute and the physically, mentally and/or emotionally challenged shall be considered to be nonresidential development as defined herein.

Service unit shall mean the unit of public facility demand associated with various land uses and types of new development as identified in the technical report and used to calculate the impact fees listed for each type of new development in the impact fee schedules in Section 8.1.10 herein.

System improvement cost shall mean amounts spent or appropriated in connection with the planning, financing, acquisition, construction and/or development of a system improvement, including, without limitation, the costs of land acquisition and development, surveying, site testing, construction, design, engineering, construction management and inspection, permitting, legal services, financial services and administrative costs. Ancillary improvements directly related to a system improvement, including but not limited to, parking, drainage improvements, landscaping, and capital equipment and furnishings may be considered part of the cost of a system improvement. System improvement costs

shall not include costs related to operations, maintenance, rehabilitation or replacement of capital facilities or equipment.

System improvements shall mean capital improvements projects, as defined in this Article, that provide additional capacity needed to accommodate new development and that serve multiple development projects, multiple neighborhoods or the entire City. System improvements may include, but are not limited to, land, facilities, site improvements, furnishings, and capital equipment. System improvements shall not include property, capital facilities or capital equipment needed solely to serve specific development. System improvements shall not include replacement, rehabilitation, operations or maintenance of land, facilities or equipment.

Sec. 8.1.6. - Applicability.

(A) This Article shall be uniformly applicable to all new development as defined in this Article, and the appropriate impact fee, and applicable administrative charge, shall be collected prior to issuance of a building permit, as defined in this Article, except where a building permit is issued for additions, remodeling, rehabilitation or other improvements to an existing structure or reconstruction of a damaged or destroyed structure, whether voluntary or involuntary, that does not result in a net increase equal to or greater than 1,000 gross square feet, calculated over a 10-year period. The applicant has the burden of submitting documentation to the City proving the use and size of the previously existing building or structure for determination by the City of the net increase for calculation of impact fees due. No refund of impact fees previously paid shall be provided for any decrease in the amount or type of development except as provided under section 8.1.12(C) of this Article. Impact fees due on new development may be adjusted based on existing or demolished structures as provided in subsections (B) and (C) of this section.

(B) Where this Article becomes applicable due to (i) additions, remodeling, rehabilitation or other improvements to an existing structure, (ii) reconstruction of a damaged or destroyed structure, whether voluntary or involuntary, (iii) a change in the use of a structure or land that increases the demand for public facilities, (iv) an increase in the number of residential dwelling units for a residential structure, or (v) an increase in the gross square footage of a structure equal to or greater than 1,000 square feet, the amount of the impact fees shall be based solely upon the net increase in the demand for public facilities based on a comparison of the impact fees calculated for the prior structure and use to the impact fees calculated for the proposed structure and use on the same lot or parcel as the prior structure. The applicant has the burden of submitting satisfactory documentation to the City proving the use and size of the previously existing structure for use by the City in determining the net increase for calculation of impact fees due.

(C) The City shall determine the net increase in demand for public facilities by considering structures demolished or proposed to be demolished in the development. Vacant parcels may be credited for structures that existed within the last 10 years; land vacant longer than 10 years

will not receive credits for demolished structures. The City shall track the use and allocation of such demolition credits.

Sec. 8.1.7. - Establishment of Impact Fee Districts.

In furtherance of the implementation of this Article, the commission hereby establishes the following benefit districts for the identified impact fees:

(A) Municipal Facilities impact fee benefit district which boundary is identical with the boundary of the City, as may be adjusted from time to time;

(B) Police impact fee benefit district which boundary is identical with the boundary of the City, as may be adjusted from time to time;

(C) Fire Rescue impact fee benefit district which boundary is identical with the boundary of the City, as may be adjusted from time to time;

(D) Parks impact fee benefit district which boundary is identical with the boundary of the City, as may be adjusted from time to time; and

(E) Water impact fee benefit district which boundary is identical to the boundary of the City plus any properties located within unincorporated Palm Beach County that have entered into a Water Service Agreement, as may be adjusted from time to time; and

(F) Wastewater impact benefit district which boundary is identical to the boundary of the City plus any properties located within unincorporated Palm Beach County that have entered into a Sewer Service Agreement, as may be adjusted from time to time; and

(G) Stormwater benefit district which boundary is identical with the boundary of the City, as may be adjusted from time to time.

Sec. 8.1.8. - Imposition of Impact Fees.

(A) No building permit shall be issued for new development in the City unless the applicant therefore has paid the applicable impact fees imposed by this Article, and applicable administrative charge. Any building permit issued for new development without payment by the applicant and collection by the City of the applicable impact fees, and administrative charge if applicable, shall be null and void.

(B) Notwithstanding subsection (A) supra, the adopted impact fee schedule may provide for exemptions or reductions in the fees assessed for Historic Properties and for new housing development with Affordability Controls provided by not-for-profit affordable housing providers.

Sec. 8.1.9. - Calculation of Impact Fee and Impact Fee Schedules.

(A) The City shall calculate the impact fees due under this Article by using the following methodology:

(1) Verify the number and type of service units proposed to be constructed as shown on the building permit application by land use type using:

(a) Number of single family and multifamily dwelling units

(b) Number of hotel, motel, or residential inn rooms or resort dwelling units

(c) Gross square footage of residential structures. For single family houses, duplexes, and fee simple townhomes, the square footage may exclude all open-air elements that are not climate controlled, such as garages, porches, and patios, if the information is supplied by the applicant. If the non-residential and residential square footage for live work units is supplied, the impact fees will be based on each type of use, otherwise the square footage of the entire unit shall apply the residential impact fee.

(d) Gross square footage of nonresidential structures, the square footage may exclude all open-air elements that are not climate controlled, such as parking garages and outdoor use areas, if the information is supplied by the applicant.

(e) The existing and proposed impervious surface area.

(2) Multiply the number of service units for each land use type in the proposed development by each applicable impact fee pursuant to the Impact Fee Schedule as officially adopted by the City Commission. The total impact fees due shall be the sum of the amounts calculated for each applicable impact fee in the fee schedule.

(3) If the land use applicable to a development is not listed in the fee schedules as adopted, or as may be amended, the fees for the most appropriate land use in the fee schedules, based on the characteristics of the proposed development as determined by the Development Services Director, shall be imposed. If the applicant believes that none of the land uses in the fee schedules are appropriate, the applicant shall be responsible for timely filing a petition under section 8.1.12 of this Article. When multiple types of development are included in a building, the impact fees due shall be calculated for each type of development and included in the total impact fees due. When multiple buildings are included in a building permit application, the impact fees shall be calculated individually for each building and included in the total impact fees due.

(4) Where a final petition determination has been made by the City Manager or a final decision issued by the City Commission after a timely appeal, the impact fees due shall be calculated based on the petition determination or commission decision.

Sec. 8.1.10. - Administration of impact fees.

(A) **Collection of impact fee and administrative charge**. Impact fees calculated and imposed pursuant to this Article shall be collected by the collecting agency prior to issuance of a building permit. If adopted by resolution of the commission, the administrative charge shall be collected by the collecting agency at the same time as collection of the impact fees.

(B) **Accounting and reporting of impact fee collections and expenditures**. Impact fees shall be transferred from the collecting agency to the City Finance Department which shall be responsible for placement of such funds into the appropriate separate accounts by type of impact fee and applicable benefit district. The administrative charge shall be placed in a separate account identified for management of the impact fee system and disbursed as set forth in this Article. The City Finance Department shall maintain and keep adequate financial records for each such account which shall show the source and disbursement of all revenues, which shall account for all moneys received, including revenue by building permit, and which shall document and ensure that the disbursement of funds from each account shall be used solely and exclusively in accordance with provisions of this Article. For purposes of petitions for refunds under section 8.1.12(C) of this Article, the expenditure and appropriation of impact fees shall be deemed to occur in the same sequential order as the collection of impact fees, in other words, the first fee in shall be the first fee out.

(C) **Trust funds established**.

(1) There is hereby established a separate impact fee trust fund account for each of the following impact fees: Municipal Facilities, Police, Fire Rescue, Parks, Water, Wastewater, and Stormwater. If existing impact fee accounts comply with the requirements of this Article, then such accounts may be deemed to be the impact fee trust fund accounts established herein.

(2) Funds withdrawn from these accounts must be used solely in accordance with the provisions of subsection (d) of this section. The disbursal of such funds shall be in accordance with the capital improvement program of the City.

(3) Any funds on deposit not immediately necessary for expenditure shall be invested in interest-bearing accounts. Interest earned by each account shall be credited to that account and shall be used solely for the purposes specified for funds of such account. The funds of these accounts shall not be commingled with other funds or revenues of the City.

(D) **Use of funds collected**. Impact fees collected pursuant to this Article shall be expended only for the type of system improvements for which the impact fee was imposed and only within the impact fee benefit district where the impact fee was collected. Impact fees shall be expended only on system improvements needed to accommodate the demand generated by new development. Impact fees shall not be expended to eliminate any deficiencies in facilities, land or equipment related to existing development or that may result from adoption of an increased level of service. The funds collected by reason of this Article shall be used exclusively for the purpose of undertaking system improvements or for financing directly, or as a pledge against bonds, revenue certificates and other obligations of indebtedness, the costs of system improvements. Impact fees shall be appropriated or expended by the end of the calendar quarter immediately following ten years after the date of payment of the impact fee or such impact fees shall be subject to refund pursuant to section 8.1.12(C) of this Article.

(E) **Annual review and modification.** The City shall annually, no later than 120 days after the annual capital budget and capital improvements program adoption process, review the impact fee ordinance procedures, assumptions, formulas, benefit district designations, and fee calculations, and issue an annual report. The annual report shall be distributed to the commission by the City Manager. The annual report should, at a minimum, include information by individual benefit district and facility type on account balances, annual collections, annual expenditures, and system improvement projects funded in whole or in part with impact fees. The annual report should present any recommendations related to the impact fee system, including but not limited to, the need for any updates to the impact fee calculations, district boundaries, and ordinance. In reviewing the impact fee system, the City may consider: development occurring in the prior year, construction of proposed public facilities, changing facility needs, inflation and other economic factors, revised cost estimates for public facilities, land and/or improvements, changes in the availability of other funding sources applicable to impact-fee-related capital improvements, and any other factors as may be relevant. The data in the annual report may be organized based on the City's fiscal year or calendar year. The annual report shall review the amount of administrative charges collected and the costs associated with the creation, administration, management and updating of the impact fee system and shall provide recommendations on any changes to the amount of the administrative charge. The annual report shall specifically analyze the need to incorporate new local data to comply with the requirement in F.S. § 163.31801 that the fees be based on the most recent and localized data. Nothing in this Article shall be construed to limit the commission's authority to amend this Article at any time.

(F) **Annual impact fee adjustment**. The City Manager may, as part of the annual report or at any other time, calculate and adjust for inflation impact fee schedules utilizing the construction cost index in the nationally recognized publication engineering news record (ENR) for the applicable time period. Such annual impact fee updates shall not require issuance of a new technical report.

(G) **Review and modification**. The City shall conduct a complete review of the impact fees every three to five years to determine if changes in costs, facility needs, development patterns, demographics, and any other relevant factors indicate a need to update the impact fee calculations, data, methodology or other components of the impact fee system. The report issued based on this review shall be distributed to the City Commission by the City Manager. The report may be used to fulfill the annual report requirement for that year. The City shall endeavor to adopt any changes and updates to the impact fee system, including updated fee calculations, within a year of completion of the report.

Sec. 8.1.11. - Administrative Charge.

The 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. The administrative charge may also be used to defray expenses related to petitions, appeals and/or legal challenges to the impact fee system. The administrative charge shall be set based upon a review of incurred and anticipated costs to create, administer, update, and manage the impact fee system and shall not exceed actual costs to the city.

Sec. 8.1.12. - Administrative Petitions for Impact Fee Determinations, Refunds and Credits.

(A) **Petition process**.

(1) Petitions for an impact fee determination, refund of impact fees and/or credit against impact fees shall be submitted using the petition process, requirements and time limits provided herein. All petition requests shall be accompanied by a fee of $500.00.

(2) All petitions shall be submitted to the City Manager for processing and preparation of a staff report and recommendations by the appropriate staff on the petition. The final determination on the petition shall be issued by the City Manager. The staff report and recommendations shall be forwarded to the City Manager no later than 60 days after filing of a complete petition. The City Manager shall, no later than 90 days after filing of the complete petition, issue a written determination on the petition, with the reasoning for the determination, and, if needed, direct the appropriate City staff to take the actions necessary to implement the determination.

(3) The City Manager, or authorized representative, is authorized to determine whether a petition is complete and whether additional data or supporting statements by an appropriate professional are needed for evaluation of the petition. Determination of the completeness of a petition is solely at the judgment of the City. If the City Manager, or authorized representative, determines that the petition is not complete, a written statement identifying insufficiencies of the petition shall be provided to the petitioner within 30 days of initial filing of the petition. The date of such written determination

of insufficiency shall toll the time limits established in this section until submittal of a complete petition.

(4) Upon written agreement by the City Manager and the petitioner, the time limits in this section may be waived for any reason, including, but not limited to, the submittal of additional data and supporting statements by the petitioner.

(5) The City Manager's determination on a petition shall be based on the impact fee calculation methodology in the technical report and the most appropriate land use category and/or number of service units based on the evidence submitted by the applicant or the evidence provided in the staff report. Any reduction in the number of service units from those presented in the technical report used in calculating impact fees due shall be based only on a permanent reduction in service units generated by the new development. Such reduced service units must be supported by a deed restriction, other permanent enforceable restriction, or reflect permanent characteristics of the new development. At the City's option, an agreement between the City and the property owner may fulfill the requirement of a permanent enforceable restriction if: i) the agreement requires immediate payment in full of the impact fees otherwise due if the demand units generated by the new development increase due to a change in the circumstances that supported the reduction or due to any other change, ii) the agreement is recorded and is binding on all subsequent purchasers of the subject property, iii) the agreement places a lien on the property equal to the impact fees otherwise due, including a reasonable rate of interest, and iv) the agreement includes any other conditions deemed necessary by the City.

(6) Except as otherwise provided in this subsection, the filing of a petition shall stay action by the City on the application for building permit and any other City action related to the development. No building permit or other City action shall be issued for development for which a petition has been filed unless the total impact fees due, as determined by the City and including any applicable administrative charge, have been paid in full or a sufficient bond or letter of credit satisfactory to the City attorney has been filed with the City.

(B) **Petition for impact fee determination**. Any applicant prior to or in conjunction with the submission of an application for a building permit or within 30 days of the date of payment of impact fees, may petition the City Manager for a determination that: i) the amount of the impact fees imposed on the new development is inappropriate based on the specific land use category applied to the residential or nonresidential development and/or based on the amount of development (dwelling units and/or gross square footage) used to calculate the impact fees and/or based on the service units, as identified in the technical report, to be generated by the applicant's new development as documented by studies and data supported by qualified experts, or ii) the impact fees are otherwise unlawfully imposed. The petition shall specify in detail the basis on which the applicant asserts that the amount of the impact fees is

inappropriate or unlawful. The petition shall be on a form provided by the City and shall, at a minimum, include: identification of the disputed factor(s), a detailed statement asserting the basis for the dispute, the data relied upon by the petitioner, a detailed statement by a qualified professional engineer, planner or other appropriate professional, and, if filed after payment of impact fees, a dated receipt for payment of the impact fees issued by the City's Building Department. The applicant/petitioner shall be responsible for all costs incurred by the City in reviewing and evaluating the petition, including but not limited to, staff time and costs of outside consultants used at the discretion of the City. Failure to timely file a petition for impact fee determination shall waive any right to challenge, review or recalculate the impact fee payment.

(C) **Petition for refund of impact fees.**

(1) The current owner of property on which an impact fee has been paid may apply for a refund of such fee if (i) the City has failed to appropriate or spend the collected fees by the end of the calendar quarter immediately following ten years after the date of payment of the impact fee; (ii) the building permit for which the impact fee has been paid has lapsed for non-commencement of construction; or iii) the project for which a building permit has been issued has been altered resulting in a decrease in the amount of the impact fee due.

(2) Only the current owner of property may petition for a refund. A petition for refund must be filed within 90 days of any of the above-specified events giving rise to the right to claim a refund. Failure to timely file a petition for refund shall waive any right to an impact fee refund.

(3) The petition for refund shall be submitted to the City Manager on a form provided by the City for such purpose. The petition shall contain a notarized affidavit that petitioner is the current owner of the property; a certified copy of latest tax records for the City of Delray Beach showing the owner of the subject property; a copy of a dated receipt for payment of the impact fee on the subject property issued by the City's Building Department; and a statement of the basis upon which the refund is sought. In the case of any uncertainty regarding the petitioner's right to the refund, the petitioner shall be responsible for providing adequate documentation supporting petitioner's legal rights and agreeing to indemnify and defend the City against any other claims to the refund.

(4) Any money refunded pursuant to this subsection shall be returned with interest at the rate of three percent per annum.

(D) **Petition for credits against impact fees.**

(1) Any applicant, as defined in this Article, who elects to construct or dedicate all or a portion of a system improvement, as defined in this Article, or, who escrows money with the City for the construction of a system improvement, may, if all criteria in this

Article and this subsection (d) are fulfilled, be granted a credit for such contribution against the impact fees otherwise due for the same type of system improvement. The applicant must, prior to the applicant's construction, dedication or escrow of the system improvement, submit a petition on a form provided by the City, obtain a determination of credit eligibility and the amount of any credit, and enter into a credit agreement with the City.

(2) The petition for credit shall contain, at a minimum, the following: a certified copy of the most recently recorded deed for the subject property, preliminary engineering plans and certified costs estimates by an architect, engineer or other appropriate professional for the proposed improvement, legal description of any land proposed to be contributed, proposed schedule for completion of any construction/dedications, identification of the proposed improvement in the current adopted City CIP and the amount of impact fee funding for the improvement, and identification in detail of the development against which the credits are to apply or which will pay the impact fees to be used for the credit, including the land use type(s), number of units/gross floor area, anticipated development schedule, and legal descriptions of the subject property. The applicant/petitioner shall be responsible for all costs incurred by the City in reviewing and evaluating the petition, including but not limited to, staff time and costs of outside consultants used at the discretion of the City. Failure to timely file a petition for impact fee determination shall waive any right to challenge, review or recalculate the impact fee payment. Any appeal of petition determinations on credits must be filed, heard, and determined prior to the applicant's construction, dedication or escrow for which the credit is requested. Failure to timely file a petition for impact fee credits shall waive any right to impact fee credits. Credits approved through this petition process may be assigned and transferred to another property within the impact fee district regardless of the ownership of such property, provided that there is a recorded agreement reflecting the transfer of the credit. A certified copy of such recorded agreement shall be submitted to the City prior to the City's acceptance of the transfer of the impact fee credits.

(3) If it is determined that the system improvement is in the adopted, current City capital Improvements plan and is funded in whole or in part with City impact fee revenue, the City Manager shall determine the appropriate amount of the credit. The amount of the credit provided shall be based on actual costs certified by a professional engineer or architect submitted by the applicant and reviewed and approved by the appropriate City department. In no event shall the credit exceed the amount of impact fees budgeted for that system improvement or the amount of the impact fees for the same type of system improvements that are due from the development requesting the credit, whichever amount is smaller. If the impact fees due exceed the amount of credit, the applicant shall pay the impact fees due less the credit at the time of issuance of the building permit.

(4) If a credit petition is approved, the applicant and the City shall enter into a credit agreement which shall provide for, but is not limited to, the following: the process to be used to verify actual costs, the value of any dedicated land or methodology to determine the value of any dedicated land, the obligations and responsibilities of the applicant, including but not limited to: (i) public bidding requirements, (ii) engineering, design and construction standards and requirements to be complied with, (iii) insurance and indemnification requirements, (iv) project inspection standards and responsibilities, (v) timing of the actions to be taken by the applicant, (vi) transfer of title to land and improvements, (vii) process for submittal of credit payment requests, and (viii) timing of payments by the City. No impact fee credits shall be given or provided until any land has been dedicated and conveyed to the City and/or the facilities have been constructed and accepted, or alternatively, until a bond has been posted to ensure the conveyance and/or construction.

(5) The City's obligation to give impact fee credits shall be limited to the impact fees collected from the development for a period not to exceed ten years from the date of approval of the agreement. The credit agreement shall provide for forfeiture of any impact fee credit remaining at the end of such ten-year period. The credit applicant shall agree to provide recorded notice to subsequent purchasers/owners of the property regarding the credit, if any, that may be available to such purchasers and shall agree to indemnify the City for any and all costs and liabilities arising from any claims by others related to the impact fee credit.

Sec. 8.1.13. - Appeal to City Commission.

(A) A petition determination by the City Manager shall be final unless a written notice of appeal to the commission is filed with the City Manager within 20 days of the date of the written determination by the City Manager, together with payment of the established fee. Such appeal may be filed by the applicant, the petitioner, or by any officer, department, board, commission, or agency of the City. Failure to timely file a request for review of a petition determination shall waive any right to further review of the petition determination.

(B) Appeals shall be filed on a form provided by the City and accompanied by ten copies of all documents for consideration by the commission, including but not limited to, the petition submittal and all accompanying documents, the petition determination, any additional documents, exhibits, technical reports, or other written evidence the appellant wants the commission to consider. The appeal must include the names of all witnesses, including experts that will testify in support of appellant's appeal, with a summary of the testimony of each witness or expert. Should the appellant want to submit additional written material after the initial filing of notice of appeal, ten complete copies of such material shall be submitted to the City Manager no later than 30 days prior to the hearing date. If any material is submitted after that date, the commission shall reschedule the hearing to a later date to provide adequate time

for review of the material by City staff and the City Manager notwithstanding any time periods established under this Article.

(C) The City Commission on review shall have full power to affirm, reverse, or modify the action of the City Manager so long as such commission action is based on applicable law and the provisions of this Article. The appeal shall be heard by the commission not more than 90 days after the appeal is filed by the appellant, unless the appellant and City Manager agree in writing to a later time or the appellant submits additional written material less than 30 days prior to the hearing. The decision of the commission shall be by resolution.

(D) If a person decides to judicially appeal any decision made by the City Commission, such person may need a record of the proceedings, and for such purpose the person may need to ensure that a verbatim record of proceedings is made which record includes the testimony and evidence upon which an appeal is to be based.

Sec. 8.1.14. - Judicial Review.

Any request for review of a decision by the commission under this Article shall be made by filing an appeal within 30 days of rendition of the commission's resolution with the circuit court in accordance with the Florida Rules of Appellate Procedure.

Sec. 8.1.15. - Effect of the Impact Fee on Zoning and Subdivision Regulations.

This Article shall not affect, in any manner, the permissible use of the property, density of development, design and improvement standards and requirements, or any other aspect of the development of land or provision of public improvements subject to the land development regulations or other regulations of the City, which shall be operative and remain in full force and effect without limitation with respect to all such development.

Sec. 8.1.16. - Impact fee as additional or supplemental requirement.

The payment of impact fees imposed pursuant to this Article is additional and supplemental to, and not in substitution of, any other regulations and requirements imposed by the City on the development of land or the issuance of building permits. In no event shall a property owner be required to pay for system improvements related to providing new capacity for new development in an amount in excess of the amount calculated pursuant to this Article; provided, however, that a property owner may be required to provide or pay, pursuant to ordinances, policies or regulations of the City, county or the State of Florida, for public facility improvements in addition to payment of impact fees pursuant to this Article. Nothing in this Article shall be construed as a guarantee of adequate public facilities at the time of development of any particular property.

Sec. 8.1.17. - Alternative Collection Method.

In the event that the appropriate amount of impact fees due pursuant to this Article are not paid prior to the issuance of a building permit, the City may elect to collect the impact fees due by any other method which is authorized by law.

Sec. 8.1.18. - Liberal Construction.

The provisions of this Article shall be liberally construed to effectively carry out its purposes in the interest of public health, safety, welfare and convenience.

Section 4. The City Commission of the City of Delray Beach finds that this Ordinance is consistent with the Comprehensive Plan, meets the criteria set forth in the Land Development Regulations, is consistent with Florida Statutes governing the adoption of new impact fees and the increase of existing impact fees, and is in the best interests of the City.

Section 5. The City Commission adopts the Impact Fee Schedule (Exhibit 1) and authorizes any subsequent adjustments to the fees contained in this ordinance shall be adopted by resolution; and

Section 6. All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

Section 7. 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 hereof as a whole or part thereof other than the part declared to be invalid.

Section 8. Specific authority is hereby given to the City Clerk to codify this Ordinance.

Section 9. This Ordinance shall become effective 90 days following adoption.

PASSED AND ADOPTED in regular session on second and final reading on this the _____ day of _____, 2026.

ATTEST:

_____ _____

Alexis Givings, City Clerk Thomas F. Carney, Jr., Mayor

First Reading _____

Second Reading _____

Approved as to form and legal sufficiency:

_____

Lynn Gelin, City Attorney

Exhibit 1

CITY OF DELRAY BEACH

Impact Fee Schedule

Municipal, Police, Fire Rescue & Parks Facilities Impact Fees				
Land Use	**Municipal**	**Police**	**Fire Rescue**	**Parks**
Residential	$1.39 per SF	$0.61 per SF	$1.22 per SF	$562.50 per unit
Hotel	$858 per room	$378 per room	$757 per room	$562.50 per room
Commercial/Retail	$2.32 per SF	$1.02 per SF	$2.05 per SF	-
Office	$1.16 per SF	$0.51 per SF	$1.03 per SF	-
Industrial	$0.48 per SF	$0.21 per SF	$0.42 per SF	-
Institutional/Other	$0.97 per SF	$0.43 per SF	$0.85 per SF	-

Water & Wastewater Facilities Impact Fees		
Land Use	**Water**	**Wastewater**
Single Family & Townhome	$3,380.50 per unit	$1000 per unit
Duplex & Multifamily Unit	$2,332.55 per unit	$690 per unit
Nonresidential uses in a Mixed Use Building	$3.05 per SF	$0.91 per SF

Nonresidential Uses per Meter Size	**Water**	**Wastewater**
¾" – 1"	$3,380.50	$1000
1.5"	$5,645.44	$1,670
2"	$11,257.07	$3,330
3"	$18,018.07	$5,330
4"	$33,805.00	$10,000
6"	$56,116.30	$16,600
8"	$112,570.65	$33,300

Stormwater Facilities Impact Fees	
Land Use	**Fee per Square Foot of Impervious Lot Coverage**
Residential	$ 0.55 per SF
Hotel	$ 0.78 per SF
Commercial/Retail	$ 0.87 per SF
Office	$ 0.83 per SF
Industrial	$ 0.74 per SF
Institutional/Other	$ 0.76 per SF

Administrative Charge	
Administration of Impact Fees	$40
Impact Fee Petition for Credit or Refund	$250
Appeal to City Commission	$500

Fee Exemptions & Reductions	
Historic Properties	50% Reduction
Not-for-profit Affordable Housing Providers	50% Reduction

Water and Wastewater fees are based upon Equivalent Dwelling Unit (EDU) for residential and mixed-use structures, and by Meter Size for nonresidential development. Mixed-use land use includes residential use for the purposes of impact fee assessment.
EDU for Water Usage (2" and smaller) is $3,380.50
EDU for Wastewater Usage is $1,000.00
SF = gross square foot area