

CHAPTER 10 - IMPACT FEES

Sec. 10-1: Definitions

For the purpose of this chapter, the following definitions shall apply unless otherwise stated:

Access Modification: Modifications designed and constructed to provide safe and adequate ingress and egress from a road, rights-of-way, or easement. These modifications include, but are not limited to, paving of adjacent or connecting roadways, turn lanes, deceleration/acceleration lanes, traffic control devices, signage/markings, drainage, and utilities, as related to the proposed access modifications.

Accessory Structure: Refer to Article 3 – Definitions of the Land Development Regulations.

Alternative Parks and Recreation Impact Fee: Any alternative parks and recreation impact fee calculated by the applicant and approved by the Impact Fee Coordinator pursuant to this chapter.

Alternative Parks and Recreation Impact Fee Study: A Parks and Recreation Impact Fee Study prepared by the applicant and submitted to the Impact Fee Coordinator pursuant to this chapter.

Alternative Public Facilities Impact Fee: any alternative public facilities impact fee calculated by the applicant and approved by the Impact Fee Coordinator pursuant to this chapter.

Alternative Public Facilities Impact Fee Study: A Public Facilities Impact Fee Study prepared by the applicant and submitted to the Impact Fee Coordinator pursuant to this chapter.

Alternative Multi-modal Impact Fee: Any alternative multi-modal impact fee calculated by an applicant and approved by the Impact Fee Coordinator pursuant to this chapter.

Alternative Multi-modal Impact Fee Study: A Multi-modal Impact Fee Study prepared by the applicant and submitted to the Impact Fee Coordinator pursuant to this chapter.

Applicant: The person/entity applying for a building permit.

Designated Wellington Multi-modal Facility: A road, sidewalk, trail, pathway, or streetscape within Wellington's multi-modal system that is (1) identified in Wellington's Comprehensive Plan and/or Land Development Regulations; (2) identified in the adopted Impact Fee Study; or (3) subsequently added pursuant to this chapter.

Designated Wellington Public Facility: a building, structure, equipment, etc. related to Wellington's public facilities that is (1) identified in Wellington's Comprehensive Plan and/or Land Development Regulations; (2) identified in the adopted Public Facilities Impact Fee Study; or (3) subsequently added pursuant to this chapter.

Encumbered: Monies committed by contract, or purchase order, in a manner that obligates Wellington to expend the encumbered amount for the delivery of goods, or the completion of services.

Governmental Buildings or Facilities: Property owned 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 section 1002.33, Florida Statutes.

Impact Fee Coordinator: The person, or their designee, appointed by the Village Manager to perform such functions as provided under this chapter.

Impact Fee Land Use Category: Those categories of land use incorporated in the Multi-modal, ~~or~~ Parks and Recreation, or Public Facilities Impact Fee Rate Schedules.

Impact Fee Study/Studies: The studies adopted by reference in support of the Multi-modal, ~~or~~ Parks and Recreation, or Public Facilities Impact Fee Rate Schedules.

Off-site Multi-modal Project: Multi-modal projects located outside of the boundaries of the project that are warranted by a signed and sealed traffic statement/study and required by Wellington.

Overnight Accommodations: For the purpose of this chapter, overnight accommodation is defined as a commercial establishment, such as a hotel, Inn, bed and breakfast, resort, or lodging establishment where guests can sleep or spend the night.

Owner: The person/entity holding legal title to the real property that is responsible for paying all impact fees, as applicable.

Parks: Areas designed for diversified recreational or passive use within Wellington. Such parks and recreation facilities provide a variety of recreational activities and serve the entire incorporated area of Wellington.

Parks and Recreation Impact Fee: The fee imposed by Wellington pursuant to this chapter or, if applicable, an approved Alternative Parks and Recreation Impact Fee.

Parks and Recreation Impact Fee Rate: An impact fee imposed for parks and recreation facilities construction under the applicable impact fee land use category established in the schedules listed in this chapter, as amended from time to time.

Public Facilities Impact Fee: the fee imposed by Wellington pursuant to this chapter or, if applicable, an approved Alternative Public Facilities Impact Fee.

Public Facilities Impact Fee Rate: an impact fee imposed for public facilities construction under the applicable impact fee land use category established in the schedules listed in this chapter, as amended from time to time.

Residential: Single-family, multi-family, apartments, condominiums, or assisted living facilities, as that term is defined in section 400.402, Florida Statutes.

Multi-modal Impact Fee: The impact fee imposed by Wellington pursuant to this chapter, or if applicable, an approved Alternative Multi-modal Impact Fee Study.

Multi-modal Impact Fee Rate: A road impact fee imposed for road construction under the applicable impact fee land use category established in the schedules listed in this chapter, as amended from time to time.

Square Footage: The gross area measured in square feet from the exterior faces of exterior walls or other exterior boundaries of the building, excluding areas within the interior of the building that are utilized for parking.

State Highway System: The road system of the State of Florida as defined in section 334.03(25), Florida Statutes, as amended from time to time.

Wellington Park System: All parks operated by Wellington, not including those parks and recreational facilities that are operated by the county.

Wellington Multi-modal System: Wellington's sidewalk, bike lane, pathway, and street systems, excluding any such systems within the county road system or the state highway system.

Sec. 10-2: Findings

The Wellington Council finds and determines that:

- A. Pursuant to Article VIII, section 2(b), Florida Constitution, and sections 166.021 and 166.041, Florida Statutes, Wellington's Council has all governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services, and may execute any power for municipal purposes, including the imposition of a Multi-modal Impact Fee, ~~or a Parks and Recreation Impact Fee, or a Public Facilities Impact Fee,~~ except where prohibited by law.
- B. The Council specifically finds that the Wellington multi-modal system, ~~and~~ parks and recreation system, and public facilities benefit all residents of Wellington, and therefore, the Multi-modal Impact Fees and the Parks and Recreation Impact Fees, and the Public Facilities Impact Fees shall be imposed in all incorporated areas of Wellington.
- C. Development contemplated in the Comprehensive Plan will require modifications and additions to the Wellington multi-modal system, ~~and~~ the parks and recreation system, and to public facilities to address impacts generated by such development and maintain the Level of Service (LOS) standards adopted by Wellington.
- D. Future development ~~should~~ shall contribute its fair share to the cost of providing or modifying facilities that are part of Wellington's multi-modal system, ~~and~~ parks and recreation system, and public facilities that are required to address impacts generated by such development.
- E. The required modifications to the Wellington multi-modal system, ~~and~~ parks and recreation system, and public facilities needed to eliminate any deficiencies between the existing Wellington multi-modal system, ~~and~~ parks and recreation system, and public facilities and the LOS adopted by Wellington shall be financed by revenue sources of Wellington other

than Multi-modal Impact Fees, ~~and~~ Parks and Recreation Impact Fees, and Public Facilities Impact Fee.

- F. Implementation of a Multi-modal Impact Fee, ~~and~~ a Parks and Recreation Impact Fee, and Public Facilities Impact Fee to require development to contribute its fair share to the cost of multi-modal transportation, ~~and~~ park capital projects, and public facilities projects is an integral and vital element of the regulatory plan of growth management incorporated in Wellington's Comprehensive Plan.
- G. The imposition of a Multi-modal Impact Fee, Parks and Recreation Impact Fee, and Public Facilities Impact Fee ~~park impact fee and a multimodal impact fee~~ is to provide a source of revenue to fund the construction of, or modification to, of the Wellington ~~park system and the Wellington multi-modal system~~ multi-modal system, parks and recreation system, and other public facilities, respectively, necessitated by development ~~as and as delineated presented~~ in the Capital Improvement Element (CIE) of the Comprehensive Plan or Wellington's Capital Improvement Budget.
- H. The Council expressly finds that the schedule of projects, as contained in the study entitled the "Multi-modal Impact Fee Technical Report," dated December 2021, provides a benefit to all properties within Wellington in excess of the Multi-modal Impact Fee.
- I. Wellington has the statutory responsibility to provide and maintain multi-modal facilities in Wellington. Development occurring within Wellington impacts the Wellington multi-modal system; therefore, development should pay its fair share of the cost of modifications to Wellington's facilities. In recognition of these findings, it is the intent of the Council that, upon approval and adoption of this chapter and the Multi-modal Impact Fee Study, Wellington shall impose a Multi-modal Impact Fee to provide the cost of modifications to designated Wellington multi-modal facilities.
- J. The projected capital projects for multi-modal facilities and the allocation of projected costs between those projects and modifications necessary to serve existing development and those projects and modifications required to accommodate development represented in the study entitled the "Multimodal Impact Fee Technical Report" dated December 2021 is hereby approved and adopted by Wellington, and such projections are hereby found to be in conformity with the Comprehensive Plan.
- K. The projected standards for parks and recreational facilities for the Wellington parks and recreation system as presented in the study entitled the "Parks and Recreation Impact Fee Study", dated October 15, 2021 is hereby approved and adopted by Wellington, and such projections are hereby found to be in conformity with the Comprehensive Plan.
- L. The Council expressly finds that the maintenance of the standards for parks and recreational facilities, as contained in the study entitled the "Parks and Recreation Impact Fee Study", dated October 15, 2021 provides a benefit to all parks and recreational facilities impact construction within Wellington in excess of the Parks and Recreation Impact Fee.
- L.M. The Council expressly finds that the Public Facilities Impact Fees, as contained in the "Public Facilities Impact Fee Study", dated January 19, 2024 provides a benefit for

Wellington's public facilities that will further the health, safety, and welfare of the growing population within Wellington.

M.N. Wellington has the responsibility to provide parks as part of the Wellington parks and recreation system. Development occurring within Wellington impacts the Wellington parks and recreation system; therefore, development should pay its fair share of the cost to expand Wellington's parks and recreation system. In recognition of these findings, it is the intent of the Council that, upon approval and adoption of this chapter and the Parks and Recreation Impact Fee Study, Wellington shall impose a Parks and Recreation Impact Fee to provide the cost of development-required modifications to Wellington's parks and recreation system.

N.O. Capital planning is an on-going process, and the LOS standards for Wellington's parks and recreation system constitute a projection of anticipated needs for parks and recreational facilities, based upon present knowledge and judgment. Therefore, in recognition of future development and the dynamic nature of population growth, it is the intent of the Council that the standard of service for the Wellington parks ~~system~~ and the Parks and Recreation Impact Fee imposed be reviewed and adjusted periodically to ensure that Parks and Recreation Impact Fees are imposed equitably and lawfully, based upon actual and anticipated development at the time of their imposition.

O.P. This chapter shall not be construed to permit the collection of Parks and Recreation Impact Fees from development for those parks developed and maintained by the county.

P.Q. The purpose of this chapter is to regulate the development of land within Wellington by requiring payment of Multi-modal Impact Fees, ~~and Parks and Recreation Impact Fees,~~ and Public Facilities Impact Fees and to provide for the cost of modifications to the Wellington multi-modal system, ~~and parks and recreation system,~~ and public facilities that are required to accommodate development. This chapter shall not be construed to permit the collection of Multi-modal Impact Fees, ~~or Parks and Recreation Impact Fees,~~ or Public Facilities Impact Fees in excess of the amount reasonably anticipated to offset the impact on the Wellington multi-modal system, ~~or parks and recreation system~~ facilities, or public facilities generated by development.

Q.R. The Council hereby acknowledges and confirms the legislative findings contained herein and expressly reaffirms such findings as applicable to the updated Multi-modal Impact Fees, the updated Parks and Recreation Impact Fees, the new Public Facilities Impact Fees, the ~~updated latest~~ Impact Fee Studies, and the updated list of projects to be adopted in the Impact Fee Studies. Moreover, the Council expressly finds that the schedule of projects, as contained in the updated Impact Fee Studies, which are incorporated by reference, provides a benefit to all development within Wellington in excess of the updated impact fees.

Sec 10-3: Adoption of Impact Fee Studies

A. Wellington's Council hereby adopts and incorporates by reference, the "Multimodal Impact Fee Technical Report", dated December 2021, ~~and~~ the "Parks and Recreation Impact Fee Study", dated October 15, 2021, and the "Public Facilities Impact Fee Study",

dated January 19, 2024. The Council particularly adopts and incorporates the updated assumptions, conclusions, and findings in such updated studies as to the allocation of anticipated costs of capital projects for the Wellington's multimodal system, ~~and~~ parks and recreation system, ~~and public facilities.~~ ~~Both Impact Fee Studies are attached as Exhibit A and B, respectively.~~

B. *Building Permits in Progress:* All building permits that are submitted, and deemed sufficient for review, prior to October 1, 2024 (the effective date of the Public Facilities Impact Fee Ordinance), shall not be subject to the Public Facilities Impact Fees. All applicable impact fees that are not collected at the time of building permit application and prior to October 1, 2024, will be collected at the time of building permit approval.

Sec. 10-4: General Imposition of Fees

A. *New Development:* Any new land development creating an impact on any public facility as defined in this Code shall be required to pay impact fees in the amount and manner set forth in this Article to help regulate the new land development's impact on those public facilities. No Building Permit for any land development requiring payment of an impact fee pursuant to this Article shall be issued until the impact fee has been paid by the feepayer. No Building Permit for any land development requiring payment of an impact fee pursuant to this Article shall be renewed or extended until the impact fee in effect at the time of the renewal or extension has been paid by the feepayer; provided, however, that additional impact fees will not be required where the development has completed and passed all applicable rough inspections for the proposed Building Permit. For those land uses that do not require a Building Permit, the impact fee shall be paid prior to issuance of a Development Order that initiates impact on public facilities. Payment of the impact fee shall not relieve the feepayer from the obligation to comply.

B. *Expansion, Replacement, or Change of Use of Existing Development:* Any existing land use that is expanded, replaced, or changed shall be required to pay impact fees based on the new or additional impact as a result of the expansion, replacement, or change of use. The feepayer may be eligible for credit for the existing land use as determined by the Impact Fee Coordinator.

Sec. 10-45: Imposition of Multi-modal Impact Fees

A. All development impacting Wellington's multi-modal system shall pay the Multi-Modal Impact Fee established in this chapter and adopted by Wellington's Council.

B. The Council hereby adopts the Multi-modal Impact Fees, which shall be imposed upon all development occurring within Wellington at a rate established in accordance with the following Multi-modal Impact Fee calculation formula:

Multi-modal Impact Fee Rate		
Use Categories, Use Classifications, and Representative Uses (Multimodal Impact Fees in bold and italic are based on a unit of measure other than a rate per sq. ft. or per 1,000 sq. ft. The recommendation is to move to a rate per sq. ft. or applicable unit of measure. 1,000 sq. ft. for illustration purposes)	Multi-modal Impact Fee	
	Per Sq. Ft.	Per 1,000 Sq. Ft.
Residential Uses per sq. ft. or applicable unit of measure		
Single Family Residential (Maximum of 10,000 sq. ft.) ¹	\$0.864	\$864.00
Active Adult (55+) Residential (Maximum 5,000 sq. ft.) ¹	\$0.626	\$626.00
Multi-Family Residential (Maximum 5,000 sq. ft.) ¹	\$1.125	\$1,125.00
Overnight Accommodations (Bed & Breakfast, Inn, Hotel, Resort) ² per room	<i>\$940.00</i>	<i>\$940.00</i>
Accessory Residential Unit (Accessory, Care-takers, or Groom's Quarters) ¹	\$0.432	\$443.00
Institutional Uses per sq. ft.		
Community Serving (Civic, Place of Assembly or Worship, Museum, Gallery)	\$0.695	\$695.00
Long Term Care (Assisted Living, Congregate Care Facility, Nursing Facility)	\$0.956	\$956.00
Private Education (Child Care, Day Care, Private Primary School, Pre-K)	\$1.422	\$1,422.00
Recreational Uses per sq. ft., or applicable unit of measure		
Outdoor Commercial Recreation (Equestrian, Golf, Multi-Purpose, Tennis) per acre	<i>\$1,089.00</i>	<i>\$1,089.00</i>
Indoor Commercial Recreation (Gym, Indoor Sports, Kids Activities, Recreation)	\$2.062	\$2,062.00
Barn (Private or Commercial) per stall	<i>\$179.00</i>	<i>\$179.00</i>
Industrial Uses per sq. ft.		
Industrial (Assembly, Manufacturing, Nursery, Outdoor Storage, Warehouse, Utilities) ³	\$0.550	\$550.00
Office Uses per sq. ft.		
Office (Bank, General, Higher Education, Professional)	\$1.734	\$1,734.00
Medical Office (Clinic, Dental, Emergency Care, Hospital, Medical, Veterinary)	\$2.759	\$2,759.00
Commercial & Retail Uses per sq. ft.		
Local Retail (Entertainment, Restaurant, Retail, Sales, Services) ⁴	\$2.057	\$2,057.00
Multi-Tenant Retail (Entertainment, Restaurant, Retail, Sales, Services) ⁵	\$4.113	\$4,113.00
Free-Standing Retail (Entertainment, Restaurant, Retail, Sales, Services) ⁶	\$5.618	\$5,618.00
Additive Fees⁷ for Commercial & Retail Uses per applicable unit of measure		
<i>Bank Drive-Thru Lane or Free-Standing ATM per lane or ATM ⁸</i>	<i>\$8,048.00</i>	<i>\$8,048.00</i>

Multi-modal Impact Fee Rate		
Use Categories, Use Classifications, and Representative Uses	Multi-modal Impact Fee	
	Per Sq. Ft.	Per 1,000 Sq. Ft.
(Multimodal Impact Fees in bold and italic are based on a unit of measure other than a rate per sq. ft. or per 1,000 sq. ft. The recommendation is to move to a rate per sq. ft. or applicable unit of measure. 1,000 sq. ft. for illustration purposes)		
<i>Motor Vehicle & Boat Cleaning (Detailing, Wash, Wax) per lane or stall</i> ⁹	\$7,392.00	\$7,392.00
<i>Motor Vehicle Charging or Fueling per charging or fueling position</i> ¹⁰	\$7,040.00	\$7,040.00
<i>Pharmacy Drive-thru per lane</i> ¹¹	\$6,869.00	\$6,869.00
<i>Quick Service Restaurant Drive-thru per lane</i> ¹²	\$14,633.00	\$14,633.00
<p>¹ The square footage for residential uses includes all habitable space per the Florida Building Code and all temperature controlled (heated and cooled) enclosed spaces (enclosed by doors, windows, or walls). The maximum square footage for residential uses denotes the maximum square footage per dwelling unit that a mobility fee will be assessed. Common enclosed areas for active adult and multi-family uses are not assessed multimodal impact fees, unless that space is leased or owned to a third-party and provides drinks, food, goods, or services to the public or paid memberships available to individuals that do not reside in a dwelling unit.</p>		
<p>² Any space that is leased or owned by a third-party use or provides drinks, food, goods, or services to the public shall be required to pay the applicable multimodal impact fees per the individual uses identified in the multimodal impact fee schedule.</p>		
<p>³ Acreage for any unenclosed displays, landscape, material, products, supplies, vegetation, and vehicle storage, including but not limited to boats, commercial vehicles, recreational vehicles, trailers, and wholesale nursery shall be converted to square footage.</p>		
<p>⁴ Local Retail means a non-chain and non-franchisee entertainment, restaurant, retail, or personal service uses under Institute of Transportation Engineers (ITE) Land Use Codes 800 and 900 that are locally owned and are not national chains or national franchisee. Local shall be defined as five (5) or fewer locations in Florida and no locations outside Florida. The Village may expand the definition of local.</p>		
<p>⁵ Multi-tenant Retail means a single building, with two (2) or more separate uses under lease or ownership where no single use exceeds 75% of the total square footage of the building. Institute of Transportation Engineers (ITE) Land Use Codes under the 800 and 900 series and ITE Land Use Codes 445 (Movie Theater).</p>		
<p>⁶ Free-standing Retail means a single building where any single use under a common lease or ownership exceeds 75% of the total square footage of the building. ITE Land Use Codes under the 800 and 900 series and ITE Land Use Codes 444 and 445 (Movie Theater & Multi-Plex). This category does not apply to uses otherwise listed under the commercial and retail uses with their own multimodal impact fee rate.</p>		
<p>⁷ Additive multimodal impact fees are assessed per applicable unit of measure, in addition to the multimodal impact fees assessed for the square footage of the building based on the applicable use classification.</p>		
<p>⁸ Each bank building shall pay the office multimodal impact fee rate for the square footage of the building. Drive-thru lanes, Free Standing ATM's and Drive-thru lanes with ATM's are assessed a separate fee per lane or per ATM and are added to any office rate fee associated with a bank building. The free-standing ATM is for an ATM only and not an ATM within or part of another non-financial building.</p>		
<p>⁹ Motor Vehicle or Boat cleaning shall mean any car wash, wax, or detail where a third party or automatic system performs the cleaning service. Fees are assessed per lane, stall, or cleaning and wash station, plus a per sq. ft. retail fee rate associated with any additional buildings.</p>		
<p>¹⁰ Rates per vehicle charging or fueling position apply to a convenience store, gas station, general store, grocery store, supermarket, superstore, variety store, wholesale club or service stations with fuel pumps. In addition, there shall be a separate multimodal impact fee for the square footage of any multi-tenant or free-standing retail building per the applicable fee rate. The number of fueling positions is based on the maximum number of vehicles that can be charged or fueled at one time.</p>		

Multi-modal Impact Fee Rate		
Use Categories, Use Classifications, and Representative Uses (Multimodal Impact Fees in bold and italic are based on a unit of measure other than a rate per sq. ft. or per 1,000 sq. ft. The recommendation is to move to a rate per sq. ft. or applicable unit of measure. 1,000 sq. ft. for illustration purposes)	Multi-modal Impact Fee	
	Per Sq. Ft.	Per 1,000 Sq. Ft.
¹¹ Any drive-thru associated with a pharmacy will be an additive fee in addition to either the multi-tenant or free-standing retail multimodal impact fee rate per sq. ft. of the building. The number of drive-thru lanes will be based on the number of lanes present when an individual place or pick-up a prescription or item.		
¹² Any drive-thru associated with a quick service restaurant will be an additive fee in addition to either the multi-tenant or free-standing retail mobility fee per square foot of the building. The number of drive-thru lanes will be based on the number of lanes present when an individual place an order or picks up an order, whichever is greater.		

Sec. 10-56: Imposition of Parks and Recreational Impact Fee

- A. All new development impacting Wellington’s parks and recreation facilities shall pay the Parks and Recreation Impact Fee established in this chapter and adopted by Wellington’s Council.
- B. Parks and Recreation Impact Fees:

Parks and Recreation Impact Fee Rate	
Type of Construction	Cost per Dwelling Unit
Single-family Unit	\$4,046.00
Multi-family Unit	\$3,378.00
Senior Living Unit	\$2,312.00

*-*Any accessory structure intended for living quarters shall be subject to the Parks and Recreation Impact Fee.*

Sec. 10-7: Imposition of Public Facilities Impact Fee

- A. All development impacting Wellington’s public facilities at time of building permit shall pay the Public Facilities Impact Fee established in this chapter and adopted by Wellington’s Council, effective October 1, 2024, and thereafter.
- B. The Council hereby adopts the Public Facilities Impact Fees, which shall be imposed upon all development occurring within Wellington at a rate established in accordance with the following Public Facilities Impact Fee calculation formula:

<u>Type of Construction</u>	<u>Impact Unit Type</u>	<u>Impact Fee per Unit Type</u>
<u>Residential</u>	<u>Single Family</u>	<u>\$1,250.00 per DU</u>
<u>Residential</u>	<u>Multi-family</u>	<u>\$935.00 per DU</u>

<u>Overnight Accommodations</u>	<u>Rooms</u>	<u>\$906.00 per Room</u>
<u>Industrial</u>	<u>Square Foot</u>	<u>\$0.74 per SF</u>
<u>Recreational</u>	<u>Square Foot</u>	<u>\$2.03 per SF</u>
<u>Institutional</u>	<u>Square Foot</u>	<u>\$2.93 per SF</u>
<u>Office</u>	<u>Square Foot</u>	<u>\$1.63 per SF</u>
<u>Commercial/Retail</u>	<u>Square Foot</u>	<u>\$3.87 per SF</u>

*Any accessory structure intended for living quarters shall be subject to the Public Facilities Impact Fee.

Sec. 10-~~86~~: Alternative Multi-modal Impact Fee, ~~and~~ Parks and Recreation Impact Fee, ~~and~~ Public Facilities Impact Fee Calculations

- A. In the event an applicant believes that the impact to Wellington’s multi-modal system, ~~or~~ parks and recreation system, or public facilities by its development is less than the impact assumed under the applicable Impact Fee Land Use Category, the applicant may, prior to issuance of a building permit for such development, file a notice of intent to submit an Alternative Multi-modal Impact Fee Study, ~~or~~ an Alternative Parks and Recreation Fee Study, or and Alternative Public Facilities Impact Fee Study to the Impact Fee Coordinator. The Impact Fee Coordinator shall review the calculations and make a determination within 10 days of submittal as to whether such calculation complies with the requirements of this section.
- B. For purposes of any Alternative Multi-Modal Impact Fee, ~~or~~ Alternative Parks and Recreation Impact Fee, or Alternative Public Facilities Impact Fee calculation, the development shall be presumed to have the maximum impact on Wellington’s multi-modal system, ~~or~~ parks and recreation system, or public facilities for the land use category contemplated under the Multi-modal Impact Fee Rate or Public Facilities Impact Fee Rate, the residential use type under the Parks and Recreation Impact Fee Rate.
- C. The Alternative Multi-Modal Impact Fee, ~~or~~ Alternative Parks and Recreation Impact Fee, or Alternative Public Facilities Impact Fee calculation shall be based on data, information, or assumptions contained in this chapter and the Impact Fee Study or an independent source, provided that:
 - 1. The independent source is a generally accepted standard source of engineering and/or planning information; or
 - 2. The independent source is a local study supported by data adequate for the conclusions contained in such study pursuant to a generally accepted methodology of engineering and/or planning.
 - 3. If a previously approved development project submitted a Multi-modal Impact Fee Study, ~~and/or~~ Parks and Recreation Impact Fee Study, and/or Public Facilities Impact Fee Study during its approval process, such calculation shall be substantially consistent with the criteria required by this chapter, and if such studies are

determined by the Impact Fee Coordinator to be current, the impacts of such previously approved development shall be presumed to be as described in the prior study. In such circumstances, an Alternative Multi-modal Impact Fee, ~~and/or~~ Alternative Parks and Recreation Impact Fee, and/or Alternative Public Facilities Impact Fee shall be established reflecting the impact described in the prior studies. There shall be a rebuttable presumption that an impact fee study conducted more than two (2) years earlier is invalid; and

4. It is acknowledged that the Multi-modal Impact Fee Rates and Public Facilities Impact Fee Rates are based upon the applicable rates for the land use categories corresponding to the impact fee land use categories. In recognition of such acknowledgment, the rates for the land use categories shall be considered an independent source for the purpose of an Alternative Multi-modal Impact Fee and/or Public Facilities Impact Fee calculation without the necessity of a study as required by this chapter.

D. If the Impact Fee Coordinator determines that the data, information, and assumptions utilized by the applicant comply with the requirements of this section and that the calculation of the Alternative Multi-modal Impact Fee, ~~and/or~~ Alternative Parks and Recreation Impact Fee, and/or Alternative Public Facilities Impact Fee was/were generated in accordance with an accepted methodology, then the alternative impact fee shall be paid in lieu of the standard fees set forth in this chapter.

E. If the Impact Fee Coordinator determines that the data, information, and assumptions utilized by the applicant do not comply with the requirements of this chapter, or that the calculation of the Alternative Multi-modal Impact Fee, ~~and/or~~ Alternative Parks and Recreation Impact Fee, and/or Alternative Public Facilities Impact Fee were not generated in accordance with an accepted methodology, then the Impact Fee Coordinator shall provide written notification of the rejection of the alternative impact fee to the applicant, by certified mail (return receipt requested), along with the reasons for the rejection. The applicant shall have 30 days from the date of the written notice of rejection to request a hearing pursuant to this chapter.

Sec. 10-97: Use of Multi-modal, Parks and Recreation, and Public Facilities Impact Fee and ~~Parks and Recreation~~ Impact Fee Proceeds

A. The Council hereby establishes separate general ledger accounts for the Multi-modal Impact Fee, ~~and~~ the Parks and Recreation Impact Fee, and the Public Facilities Impact Fee that shall be segregated from each other and all other Wellington accounts. All impact fees shall be deposited into said accounts, respectively, immediately upon receipt.

B. The monies deposited into the respective impact fee accounts shall be used solely for the purpose of constructing, or modifying, Wellington's multi-modal facilities, ~~or~~ parks and recreation facilities, or public facilities including, but not limited to:

1. Design and construction plan preparation;
2. Permitting and fees;

3. Rights-of-Way acquisition, land acquisition, and materials acquisition, including any costs of acquisition or condemnation;
4. Design and construction of new drainage facilities in conjunction with new or modified multi-modal, ~~or~~ parks and recreation facilities, or public facilities;
5. Construction of streetscape and/or landscape projects associated with new or modified multi-modal, ~~or~~ parks and recreation facilities, or public facilities;
6. Construction upgrades to comply with the Americans with Disability Act (ADA);
7. Relocating utilities to accommodate new multi-modal or parks and recreation construction;
8. Construction management and inspection;
9. Surveying and soils and material testing;
10. Repayment of monies transferred or borrowed from any Wellington general fund that were used to fund any development-impacted construction or modifications as defined herein; and
11. Payment of principal and interest, necessary reserves, and costs of issuance under any bonds or other indebtedness issued by Wellington to provide funds for development-impacted capital projects for Wellington's multi-modal, ~~or~~ parks and recreation facilities, or public facilities.
12. Specifically related to multi-modal facilities:
 - a. Construction of new through lanes;
 - b. Construction of new turn lanes or roundabouts;
 - c. Construction of new bridges;
 - d. Construction of new bike lanes, multi-modal paths, sidewalks, and/or trails;
 - e. Design, purchase, and installation of traffic signals; and/or
 - f. Construction of new curbs, medians, or shoulders.
13. Specifically related to parks and recreation facilities:
 - a. Construction and design of recreation facilities;
 - b. Acquisition of new capital equipment for parks and recreation facilities; and/or

- c. Providing facilities and additions to Wellington's parks and recreation system required to accommodate population growth as projected in the Impact Fee Study.

14. Specifically related to public facilities:

a. Construction and design of public facilities, other than recreation;

b. Acquisition of new capital equipment for public facilities; and/or

d.c. Providing facilities and additions to Wellington's public facilities required to accommodate population growth as projected in the Impact Fee Study.

- C. Funds in the impact fee accounts shall not be used for any expenditure that would be classified as a maintenance or repair expenses.
- D. Any monies not immediately necessary for expenditure may be invested by Wellington. All income derived from such investments shall be deposited in the Multi-modal Impact Fee trust account and used as provided herein.

Sec. 10-~~8~~10: Exemptions

A. The following shall be exempted from payment of the Multi-modal Impact Fee:

- 1. Alterations, expansion, or replacement of an existing dwelling unit that does not increase the number of families for which such dwelling unit is arranged, designed, or intended to accommodate for the purpose of providing living quarters.
- 2. The alteration or expansion of a building if the buildings use upon completion does not generate greater impacts under the applicable Multi-modal Impact Fee Rate.
- 3. The replacement of a building, or the construction of an accessory building or structure, if the replacement building, accessory building, or structure does not result in a land use generating greater impacts under the applicable Multi-modal Impact Fee Rate.
- 4. The construction of governmental buildings or facilities.

B. The following shall be exempted from payment of the Parks and Recreation Impact Fee:

- 1. Any development that results in no new impact on a capital facility for which the Parks and Recreation Impact Fee is assessed by Wellington.
- 2. The construction of an accessory building, or structure, where the use is not changed, additional impact does not result from the construction, and where no additional dwelling units are, or square footage is, added.
- 3. The construction of governmental buildings or facilities.

C. The following shall be exempted from payment of the Public Facilities Impact Fee:

1. The construction of an accessory building, or structure, where the principal use is not changed, additional impact does not result from the construction, and where the accessory structure is not used for living quarters of any kind.
2. The construction of governmental buildings or facilities.

Sec. 10-911: Payment

- A. Except as otherwise provided in this chapter, ~~prior to the issuance of a building permit for a development, as applicable,~~ an applicant shall pay the Multi-modal Impact Fees, ~~and the Parks and Recreation Impact Fees, and the Public Facilities Impact Fees at the time of building permit approval, as applicable, as set forth in this chapter,~~ directly to Wellington.
- B. In the event a building permit issued for a development expires prior to completion of the development, the applicant may, within 90 days of the expiration of the building permit, apply for a refund of the Multi-modal Impact Fees, ~~and the Parks and Recreation Impact Fees,~~ or the Public Facilities Impact Fee as applicable. Failure to apply within the 90-day period for a refund of the Multi-modal Impact Fees, ~~and the Parks and Recreation Impact Fees,~~ and the Public Facilities Impact Fees, as applicable, shall waive any rights to a refund.
- C. The application for refund shall be filed with the Impact Fee Coordinator and contain the following:
1. The name and address of the applicant;
 2. The location of the property that was the subject of the building permit;
 3. The date the Multi-modal Impact Fees, ~~and the Parks and Recreation Impact Fees,~~ and Public Facilities Impact Fees were paid, as applicable;
 4. A copy of the receipt of payment for the Multi-modal Impact Fees, ~~and the Parks and Recreation Impact Fees,~~ and Public Facilities Impact Fees as applicable; and
 5. The date the building permit was issued and the date of expiration.
- D. After verifying that the building permit has expired, and that the development was not completed, the Impact Fee Coordinator shall refund the Multi-modal Impact Fees, ~~and the Parks and Recreation Impact Fees,~~ and the Public Facilities Impact Fees paid for such development, as applicable. Wellington shall retain 2% of the Multi-modal Impact Fees, ~~and the Parks and Recreation Impact Fees,~~ and Public Facilities Impact Fees, as applicable, to offset the costs of administering the refund.

- E. A building permit that is subsequently issued for a development on the same property that was the subject of a refund shall pay the Multi-modal Impact Fees, ~~and~~ the Parks and Recreation Impact Fees, or Public Facilities Impact Fees, as required by this chapter.
- F. The payment of the Multi-modal Impact Fees, ~~and~~ the Parks and Recreation Impact Fees, and the Public Facilities Impact Fees, as applicable, shall be in addition to any other fees, charges, or assessments imposed by Wellington for the issuance of a building permit.

Sec. 10-~~1012~~: Alternative Collection Method

In the event the Multi-modal Impact Fees, ~~and~~ the Parks and Recreation Impact Fees, and Public Facilities Impact Fees as applicable, are not paid prior to the issuance of a building permit for the affected development, Wellington may elect to collect the Multi-modal Impact Fees and the Parks and Recreation Impact Fees by any other method authorized by law.

Sec. 10-~~1113~~: Developer Contribution Credit

- A. A credit ~~shall~~may be granted against the Multi-modal Impact Fee imposed pursuant to this chapter for the contribution of land or for the construction of any off-site projects required pursuant to a development order by Wellington or voluntarily made in connection with the development. Such land contribution and construction shall be subject to the approval of the Village Manager based upon the recommendation of the Impact Fee Coordinator and the following standards:
 - 1. The contributed land shall be an integral part, and a necessary accommodation, of the contemplated off-site modifications to Wellington's multi-modal system.
 - 2. The contribution shall exclude necessary access modifications.
- B. The following credits ~~shall~~may be granted against the Parks and Recreation Impact Fee imposed pursuant to this chapter. Such land contribution and construction shall be subject to the approval of the Village Manager based on the recommendation of the Impact Fee Coordinator:
 - 1. The contribution of land, for the construction of any parks or recreational facilities, or additions made to the Wellington parks and recreation system required pursuant to a development order of Wellington or made voluntarily. Such land contribution and construction shall be subject to the approval of the Impact Fee Coordinator and shall be an integral part of, and a necessary accommodation to, an existing or contemplated park in the Wellington park system.
 - 2. Any dedications of land for parks and recreational facilities or any fee paid in lieu of a land dedication made under any Wellington ordinance, which provides for a mandatory land dedication for parks and recreational facilities.

C. The following credits may be granted against the Public Facilities Impact Fee imposed pursuant to this chapter. Such land contribution and construction shall be subject to the

approval of the Village Manager based on the recommendation of the Impact Fee Coordinator:

1. The contribution of land, for the construction of any public facilities, or additions made to Wellington's public facilities required pursuant to a development order of Wellington or made voluntarily. Such land contribution and construction shall be subject to the approval of the Village Council and shall be an integral part of, and a necessary accommodation to, an existing or contemplated public facilities in Wellington.
2. Any dedications of land for public facilities or any fee paid in lieu of a land dedication made under any Wellington ordinance, which provides for a mandatory land dedication for public facilities.

C.D. The amount of developer contribution credit to be applied to the Multi-modal Impact Fee, ~~and~~ the Parks and Recreation Impact Fee, and the Public Facilities Impact Fee as applicable, shall be determined according to the following standards of valuation:

1. The value of donated land shall be based upon a written appraisal of fair market value as of the date of the development order by a qualified and professional appraiser and based upon comparable sales of similar property between unrelated parties in a bargaining transaction, if available.
2. The cost of anticipated construction of off-site modifications to designated Wellington multi-modal facilities, ~~or~~ parks and recreational facilities, or other public facilities, as applicable, shall be based upon cost estimates certified by a professional architect or engineer.
3. The land and construction contributions shall only provide additions or modifications to a designated Wellington multi-modal ~~facility~~facilities, ~~or Wellington~~ parks and recreation system, or other public facilities, as applicable, required to accommodate development and/or populations as projected in the Impact Fee Study.

D.E. Prior to issuance of a development order, the applicant shall submit a proposed plan for the construction or contribution of off-site modifications to a designated Wellington multi-modal ~~facility~~facilities, ~~or~~ a plan for contributions to Wellington's parks and recreation system, or a plan for public facilities improvements. The proposed plan shall include:

1. A designation of the development for which the plan is being submitted;
2. A list of the contemplated off-site modifications to a Wellington multi-modal ~~facility~~ies, ~~and/or~~ parks and recreation ~~facility~~ies, and/or other public facilities, if applicable;
3. A legal description of any land proposed to be contributed and a written appraisal prepared in conformity with this chapter;
4. An estimate of proposed construction costs certified by a professional engineer; and

5. A proposed time schedule for completion of the proposed plan.

F.F. Upon receipt of the proposed plan, Wellington shall determine:

1. If such proposed plan of construction or contribution is in conformity with the contemplated off-site modifications to a designated Wellington multimodal facility~~ies,~~ or parks and recreation facilities, or public facilities respectfully, if applicable;
2. If the proposed contribution is consistent with the public interest;
3. If the proposed construction and contribution time schedule is consistent with Wellington's Capital Improvement Program; and
4. The amount of the developer contribution credit based upon the above standards of valuation, if any.

F.G. The decision of the Village Manager, with the recommendation of the Impact Fee Coordinator, as to whether to accept or reject the proposed plan of contribution or construction and the amount of the developer contribution credit, if any, shall be in writing and issued within 30 days of the review. The written decision shall include an implementation schedule and bonding requirements as provided herein. A copy shall be provided to the applicant and owner. If the Village Manager rejects the proposed plan of contribution or construction, or if the applicant disputes the amount of developer contribution credit granted, the applicant shall have 30 days from the receipt of written notification to request a hearing pursuant to this chapter.

G.H. All construction cost estimates shall be based upon, and all construction plans and specifications shall conform to, Wellington construction standards. All plans and specifications shall be approved by Wellington's Engineer prior to commencement of construction.

H.I. In the event the amount of developer contribution credit determined to be applicable by the Impact Fee Coordinator pursuant to an approved plan of construction or contribution exceeds the total amount of the Multi-modal Impact Fee, ~~or~~ the Parks and Recreation Impact Fee, or the Public Facilities Impact Fee due by the applicant for the identified development as applicable, Wellington shall execute an agreement with the applicant for future reimbursement of the excess of such contribution credit from future receipts by Wellington of the Multi-modal Impact Fee, ~~or~~ the Parks and Recreation Impact Fee, or Public Facilities Impact Fee, respectively. The term of such agreement for reimbursement shall not exceed five (5) years from the date of completion of the approved plan of construction and shall provide for a forfeiture of any remaining reimbursement balance at the end of such five (5)-year period.

H.J. Any claim for credit, as established in this chapter, must be made no later than the time of development order approval. Any claim not so made shall be deemed waived.

J.K. Any applicant whose proposed plan of contribution or construction has been rejected by the Village Manager, or who disputes the amount of the developer contribution credit, and who desires the immediate issuance of a building permit, shall pay the applicable Multi-modal Impact Fee, ~~and~~ Parks and Recreation Impact Fee, and Public Facilities Impact Fee prior to or at the time the request for hearing is made. Said payment shall be deemed paid "under protest" and shall not be construed as a waiver of any review rights. Any difference shall be refunded to the applicant or owner.

K.L. The land contribution and developer contribution credit set forth in this Chapter is in addition to the contribution of land that is required as rights-of-way and nothing contained herein shall reduce or eliminate such developer obligation.—

L.M. No impact fee credits shall be granted until the land is conveyed to Wellington, or facilities have been constructed and accepted, or alternatively, until a bond has been posted to ensure the conveyance or construction.

Sec. 10-~~12~~14: Review Hearings

A. An applicant or owner who is required to pay a Multi-modal Impact Fee, ~~and/or~~ a Parks and Recreation Impact Fee, and/or Public Facilities Impact Fee pursuant to this chapter, as applicable, shall have the right to request a review hearing.

B. Such hearing shall be limited to the review of the following:

1. The application or calculation of the Multi-modal Impact Fee, ~~and~~ the Parks and Recreation Impact Fee, and the Public Facilities Impact Fee pursuant to this chapter;
2. The rejection of the Alternative Multi-modal Impact Fee calculation, ~~or~~ the Alternative Parks and Recreation Impact Fee, or the Alternative Public Facilities Impact Fee calculation pursuant to this chapter; or
3. The rejection of a proposed plan of construction or contribution submitted for purposes of determining a developer contribution credit pursuant to this chapter or the amount of such credit.

C. Such hearing shall be requested by the applicant or owner within 30 days of the date of first receipt of the following:

1. Notice that the Multi-modal Impact Fee, ~~and~~ the Parks and Recreation Impact Fee, and the Public Facilities Impact Fee, as applicable, are due.
2. Determination on a proposed Alternative Multi-modal Impact Fee, ~~and~~ proposed Alternative Parks and Recreation Impact Fee, or proposed Alternative Public Facilities Impact Fee, as applicable.
3. Determination on a proposed plan of construction or contribution submitted for purposes of determining a developer contribution credit pursuant to this chapter or the amount of such credit.

D. The request for hearing shall be filed with the Impact Fee Coordinator and shall contain the following:

1. The name and address of the applicant or owner;
2. The legal description of the property in question;
3. If issued, the date the building permit was issued;
4. A brief description of the nature of the construction being undertaken pursuant to the building permit;
5. If paid, the date the Multimodal Impact Fee, ~~and/or~~ the Parks and Recreation Impact Fee, and/or Public Facilities Impact Fee was/were paid; and
6. A statement of the reasons why the applicant or owner is requesting the hearing.

E. Upon receipt of such request, a hearing before the Planning, Zoning and Adjustment Board shall be scheduled and the applicant and owner shall be provided written notice of the time and place of the hearing. Such hearing shall be held within 45 days of the date the request for hearing was filed, unless a continuance is requested by the applicant.

F. Such hearing shall be before the Planning, Zoning and Adjustment Board and shall be conducted in a manner designed to obtain all information and evidence relevant to the requested hearing. Formal rules of civil procedure and evidence shall not be applicable; however, the hearing shall be conducted in a fair and impartial manner with each party having an opportunity to be heard and to present information and evidence.

G. An applicant or owner may request a hearing under this chapter without paying the applicable Multi-modal Impact Fee, ~~and/or~~ Parks and Recreation Impact Fee, and/or Public facilities Impact Fee, as applicable, but no building permit shall be issued until such Multimodal Impact Fee, ~~and/or~~ Parks and Recreation Impact Fee, and/or Public Facilities Impact Fee are paid in the amount initially calculated, or the amount approved upon completion of the review provided in this chapter.

Sec. 10-~~1315~~: Declaration of Exclusion from Administrative Procedures Act

Nothing contained in this chapter shall be construed or interpreted to include Wellington in the definition of agency as contained in section 120.52, Florida Statutes, or to otherwise subject Wellington to the application of the Administrative Procedure Act, Chapter 120, Florida Statutes. This declaration of intent and exclusion shall apply to all proceedings taken as a result of or pursuant to this chapter, including specifically, but not limited to, the determination of alternative fee calculations and review hearings of this chapter.

Sec. 10-~~1416~~: Impact Fee Land Use Category Determination

In the event a development involves a land use not contemplated under The Impact Fee Land Use Categories set forth this chapter, the Impact Fee Coordinator shall determine the most similar Impact Fee Land Use Category or Categories to be applied.