

City of North Port Impact Fee Update: HR 337 Demonstrated Need Study

Introduction

Laws of Florida Chapter 2021-063 (House Bill 337) took effect on July 1, 2021. The new law amended the Florida Impact Fee Act, with several key changes affecting the implementation of impact fees in Florida. Newly created Florida Statutes Subsection 163.31801(6) imposed limitations as to how local jurisdictions can increase impact fees, applicable retroactively to January 1, 2021. This new subsection imposed the following phase-in limitations for impact fee increases:

- Impact fee increases of not more than 25% must be phased in over 2 years and increases exceeding 25%, but not more than 50%, must be phased in over 4 years in equal increments;
- Impact fee increases cannot exceed 50% of the current impact fee rate; and
- Impact fees can only be increased every four years.

The statute allows for increasing impact fees beyond the phase-in limitations summarized above if certain criteria are met:

- A demonstrated need study must have been conducted within 12 months before the adoption of new fees and must justify any increase exceeding the limitations;
- The demonstrated need study must expressly demonstrate extraordinary circumstances necessitating the need to exceed the phase-in limitations;
- The jurisdiction must hold no fewer than two publicly noticed workshops dedicated to the extraordinary circumstances; and
- The impact fee increase ordinance must be approved by a two-thirds majority vote of the governing body.

This *Demonstrated Need Study* establishes the extraordinary circumstances in North Port necessitating the need to exceed the phase-in limitations specified in Florida law for the general government, law enforcement, fire and EMS, parks and recreation and solid waste facilities fees. Following are the extraordinary circumstances that will be discussed in greater detail below:

- North Port has grown at a rate that exceeds twice the rate of growth for Sarasota County and the State of Florida as a whole. The high rate of growth will continue to place significant demands for the City's provision of infrastructure to serve such growth.
- Since the previous Impact Fee Study update in 2011, construction costs for capital facilities have increased significantly. The fees calculated in 2011 can no longer fund the intended facilities level of service.
- The City Commission never implemented the maximum justified fee levels from the 2011 study. The fees were initially implemented at 50% of the maximum justified fee levels. In 2019, the fee schedule was increased to 75% of the maximum justified fee levels from the 2011 study. In February 2021 the City adopted the maximum justified fee schedule from the 2011 study, but the fee increases would have exceeded the phase-in limitations set forth in HR 337.
- During the recession, the City placed a moratorium on transportation and solid waste Impact Fees.
- Implementing increased impact fees in the manner provided for under the phase-in limitations in HB 337 would result in a significant revenue loss to North Port, especially in the City's case

where the maximum fees had not been originally adopted and the City had relied upon the ability to phase them in. The current requirements are an additional restriction and delay on this phase in. Facilities needed to serve new development would have to be funded by existing taxpayers rather than the growth which created the need for facilities.

Significant Population Growth

The growth rate in North Port has exceeded the growth rate in the County and in the State. **Table 1** details estimates of population in North Port, Sarasota County and the State of Florida during the 10-year period from April 1, 2011 to April 1, 2020 as reported by The University of Florida's Bureau of Economic and Business Research (BEBR). The BEBR population estimates are a commonly used data source in Florida for a variety of analyses and are typically used by local governments in the preparation of impact fee studies.

Population growth in North Port increased nearly 34% percent during this period. In contrast the County grew by 15.08% and statewide population grew 14.23%, less than half the growth in North Port. This disproportionate growth creates unexpected and extraordinary demand for government services and the facilities and infrastructure required to deliver those services.

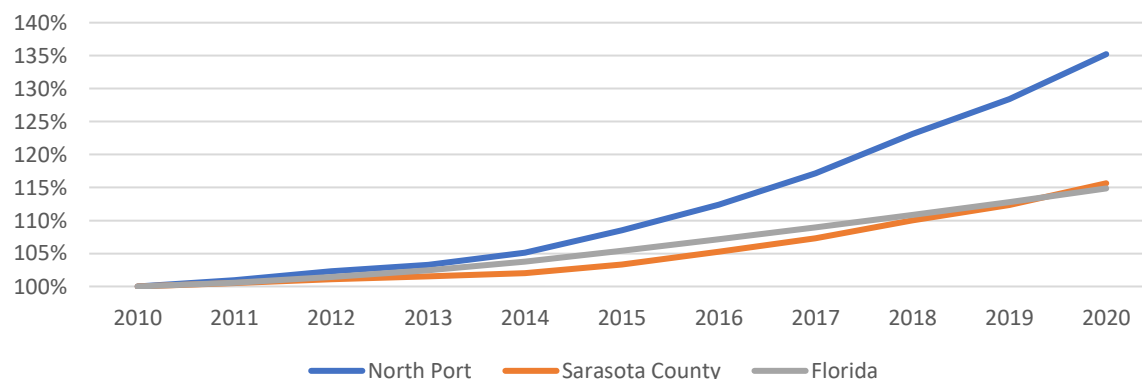
Table 1: Historical Population Growth

	April 1, 2011	April 1, 2020	Increase Since 2011
North Port	57,893	77,561	33.97%
Sarasota County	381,319	438,816	15.08%
Florida	18,905,048	21,596,068	14.23%

Sources: University of Florida, Bureau of Economic and Business Research, 2011 to 2020; Willdan Financial Services.

Figure 1 graphically compares the historical rate of population growth in North Port, Sarasota County and Florida.

Figure 1: Historical Population Growth (Indexed 2010=100%)



In addition to the disproportionate growth in recent years, growth is projected to continue at a rate that exceeds the County and State growth rates to an even greater degree. **Table 2** displays growth projections prepared for the City, County and State by BEBR. The City is projected to grow by 81.7% by 2045, whereas the City and State are projected to grow by 27% and 25.7%, respectively, or approximately a third of the City's growth rate.

Table 2: Projected Population Growth

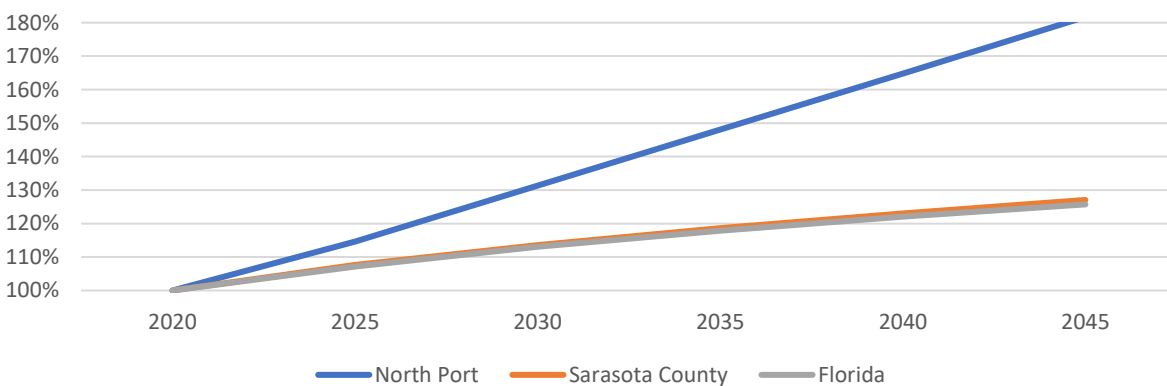
	2020	2045	Projected Increase
North Port	77,561	140,943	81.72%
Sarasota County ¹	438,816	557,500	27.05%
Florida ¹	21,596,068	27,149,800	25.72%

¹ "Medium" growth projection, 2021.

Sources: University of Florida, Bureau of Economic and Business Research, 2021; Willdan Financial Services.

Figure 2 graphically compares the projected rate of population growth in North Port, Sarasota County and Florida.

Figure 2: Projected Population Growth (Indexed 2010=100%)



Increased Capital Facilities Construction Costs

Construction costs have escalated significantly since the City last completed an impact fee study for general government, law enforcement, fire and EMS, parks and recreation and solid waste facilities. The Engineering News Record's Building Cost Index (BCI) tracks construction costs using several components including the cost of labor and common building materials. It is commonly used in the construction industry to adjust estimated costs for inflation. Since 2011 the BCI has increased 43.2%, and the City has

not increased its impact fees. Such increases do not account for the extraordinary inflation currently affecting the state and national economy resulting from the Covid-19 Pandemic. Had the fees been implemented at the maximum justified levels indicated by the 2011 study, those costs would have to be increased by 43.2% to have the same buying power in 2021. Error! Reference source not found. displays the change in the BCI since 2011.

Table 3: Building Cost Index History

Average 2011	5058
October 2021	7244
Increase (2011 to Current)	43.2%

Sources: Engineering News Record Building Cost Index; Willdan Financial Services.

Loss of Revenue from Under Collection

Fees calculated in the City’s 2011 impact fee study were initially implemented at approximately 50% of the maximum justified amounts as a policy decision by the City Commission. In response to the recession Ord. 2012-01 implemented a moratorium on transportation and solid waste impact fees from January 21, 2012 through January 31, 2014. Later, Ord. 2014-12 was adopted which extended the moratorium through January 31, 2015 for transportation impact fees only. In 2019, the fee schedule was increased to 75% of the maximum justified fee levels from the 2011 study. In February 2021 the City adopted the maximum justified fee schedule from the 2011 study, but the fee increases were precluded by the phase-in limitations of HB 337.

Table 4 shows the actual collected impact fee revenue since FY2010-11. The table also shows an estimate of the maximum revenue that the City could have collected had it implemented fees at 100% of the maximum justified fee levels and not issued a moratorium on solid waste facilities fees. For the purpose of this analysis, it is assumed that actual fee revenue is 50% of maximum fee revenue through FY2018-19. Actual fee revenue is assumed 75% of fee revenue in FY 2019-20. The maximum justified fee revenue for solid waste facilities during the moratorium (2011 through 2014) is estimated based on average solid waste fee revenue relative to other fee category revenue from 2015 through 2020. **Figure 3** visualizes the data in Table 4.

Note that the potential fee revenue estimated in this analysis is relative to the 2011 impact fee study analysis. The rapid population growth and construction costs escalation detailed earlier in this study indicate that the maximum justified fees from the 2011 study were also not sufficient to meet the needs of new development.

The result of these actions by the City Commission is that the City has collected far less than it could have under the maximum justified fee levels from the 2011 study. In the past three years the current City Commission has recognized that its impact fee program was out of date and has taken steps to appropriately adjust the fee levels to meet the demands of new growth and development paying the fees. In addition to the impact fee update related to this Demonstrated Need Study, the City is also

currently updating its transportation impact fee study as a mobility fee to fund a variety of capacity-expanding improvements.

When implementing fees at less than the maximum justified amounts in the years after 2011, the City Commission could not have anticipated that it could be limited with regards to future fee increases. At the time, the Commission was acting reasonably to meet its facility requirements and not stifle new development. However, with the adoption of HR 337, the City is potentially constrained in its ability to raise sufficient revenues to maintain its facility standards. The City Commission must now consider increasing its impact fees greater than the phase-in limitations in HR 337 to ensure service delivery responsibilities for new growth at current facility standards.

Going forward, implementing increased impact fees in the manner provided for under the phase-in limitations in HB 337 would result in a significant revenue loss to North Port. Facilities needed to serve new development would have to be funded by existing taxpayers, or else the City's facility standards would decrease.

Table 4: Actual v. Unrealized Impact Fee Revenue

Fee Category	FY2010-11	FY2011-12	FY2012-13	FY2013-14	FY2014-15	FY2015-16	FY2016-17	FY2017-18	FY2018-19	FY2019-20	Total
<i>Actual Fee Revenue Collected</i>											
Law Enforcement	\$ 17,407	\$ 75,809	\$ 54,015	\$ 80,041	\$ 150,145	\$ 190,672	\$ 175,125	\$ 251,861	\$ 244,000	\$ 442,412	\$ 1,681,487
Fire and EMS	51,643	101,289	57,480	85,078	159,025	202,703	185,987	267,503	260,919	528,233	1,899,860
Parks and Recreation	128,793	107,076	147,545	194,490	355,817	500,746	468,900	643,271	662,273	1,294,969	4,503,880
Solid Waste	1,249	532	-	15,399	100,106	153,066	132,190	195,915	272,567	327,885	1,198,909
General Government	9,122	53,906	39,888	59,013	110,913	140,745	129,341	186,019	180,091	450,293	1,359,331
Total	\$ 208,214	\$ 338,612	\$ 298,928	\$ 434,021	\$ 876,006	\$ 1,187,932	\$ 1,091,543	\$ 1,544,569	\$ 1,619,850	\$ 3,043,792	\$ 10,643,467
<i>Estimated Maximum Justified Fee Revenue¹</i>											
Law Enforcement	\$ 34,814	\$ 151,618	\$ 108,030	\$ 160,082	\$ 300,290	\$ 381,344	\$ 350,250	\$ 503,722	\$ 488,000	\$ 589,883	\$ 3,068,033
Fire and EMS	103,286	202,578	114,960	170,156	318,050	405,406	371,974	535,006	521,838	704,311	3,447,565
Parks and Recreation	257,586	214,152	295,090	388,980	711,634	1,001,492	937,800	1,286,542	1,324,546	1,726,625	8,144,447
Solid Waste	23,010	67,995	44,559	65,972	200,212	306,132	264,380	391,830	545,134	437,180	2,346,403
General Government	18,244	107,812	79,776	118,026	221,826	281,490	258,682	372,038	360,182	600,391	2,418,467
Total	\$ 436,940	\$ 744,155	\$ 642,415	\$ 903,216	\$ 1,752,012	\$ 2,375,864	\$ 2,183,086	\$ 3,089,138	\$ 3,239,700	\$ 4,058,389	\$ 19,424,915
Difference	\$ 228,726	\$ 405,543	\$ 343,487	\$ 469,195	\$ 876,006	\$ 1,187,932	\$ 1,091,543	\$ 1,544,569	\$ 1,619,850	\$ 1,014,597	\$ 8,781,448

¹ Assumes actual fee revenue is 50% of maximum fee revenue through FY2018-19. Assumes actual fee revenue is 75% of fee revenue in FY 2019-20.

² Maximum justified fee revenue for solid waste facilities during moratorium (2011 through 2014) estimated based on average solid waste fee revenue relative to other fee category revenue from 2015 through 2020.

Sources: City of North Port Annual Budget FY2010-11 through FY2020-21; Willdan Financial Services.

Figure 3: Actual and Unrealized Fee Revenue

