



# 2024 FGFOA

## School of Government Finance

### Impact Fees

April 12<sup>th</sup>, 2024

# Impact Fees

1. Overview of Impact Fees
2. Methodology and Calculation
3. Case Studies
4. Restrictions



# What is an Impact Fee?

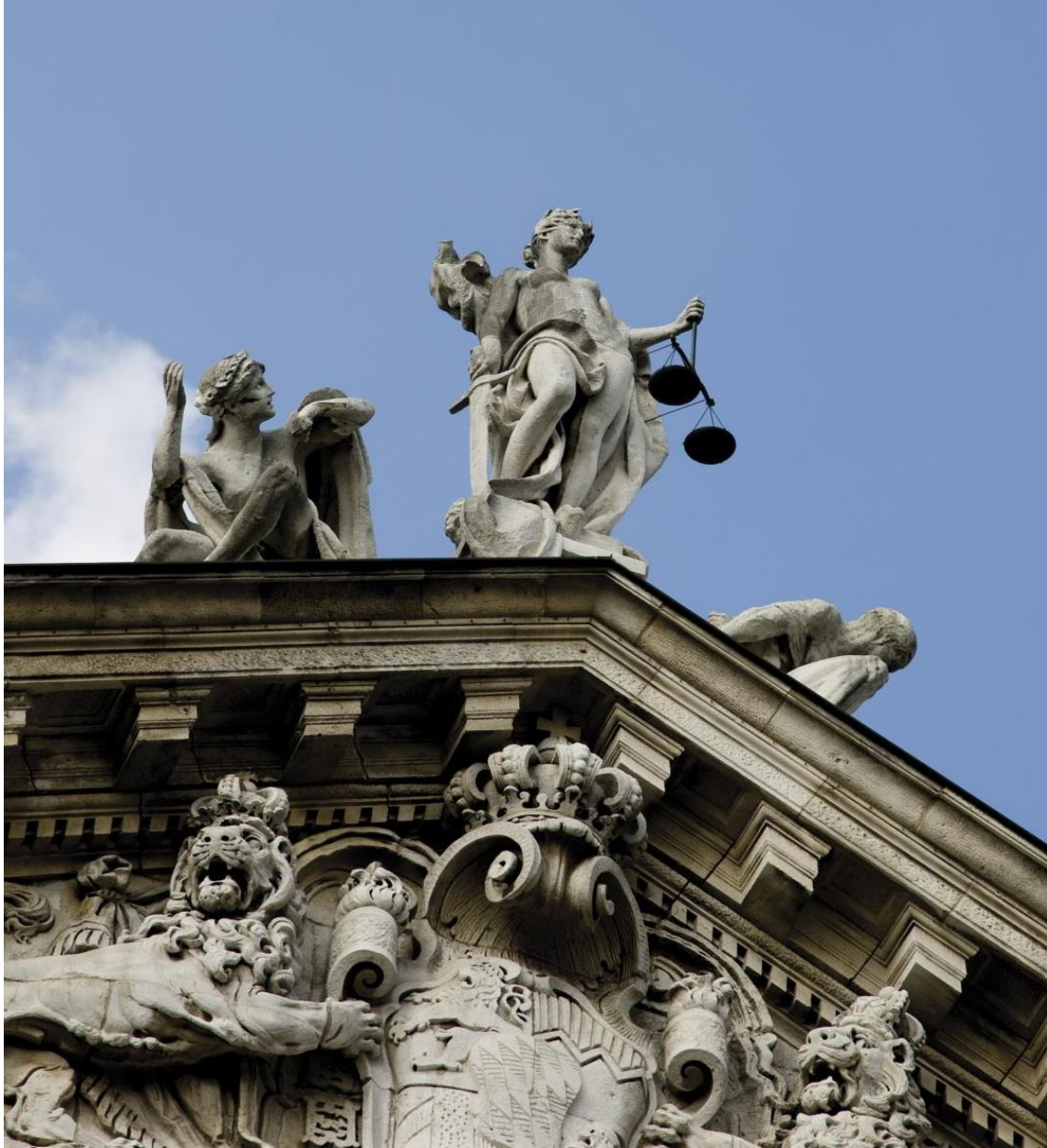
Fee that pays for new facilities to serve growth

Alternative to raising property taxes

One-time payment imposed on new development

Paid at issuance of building permit





## “Florida Impact Fee Act”

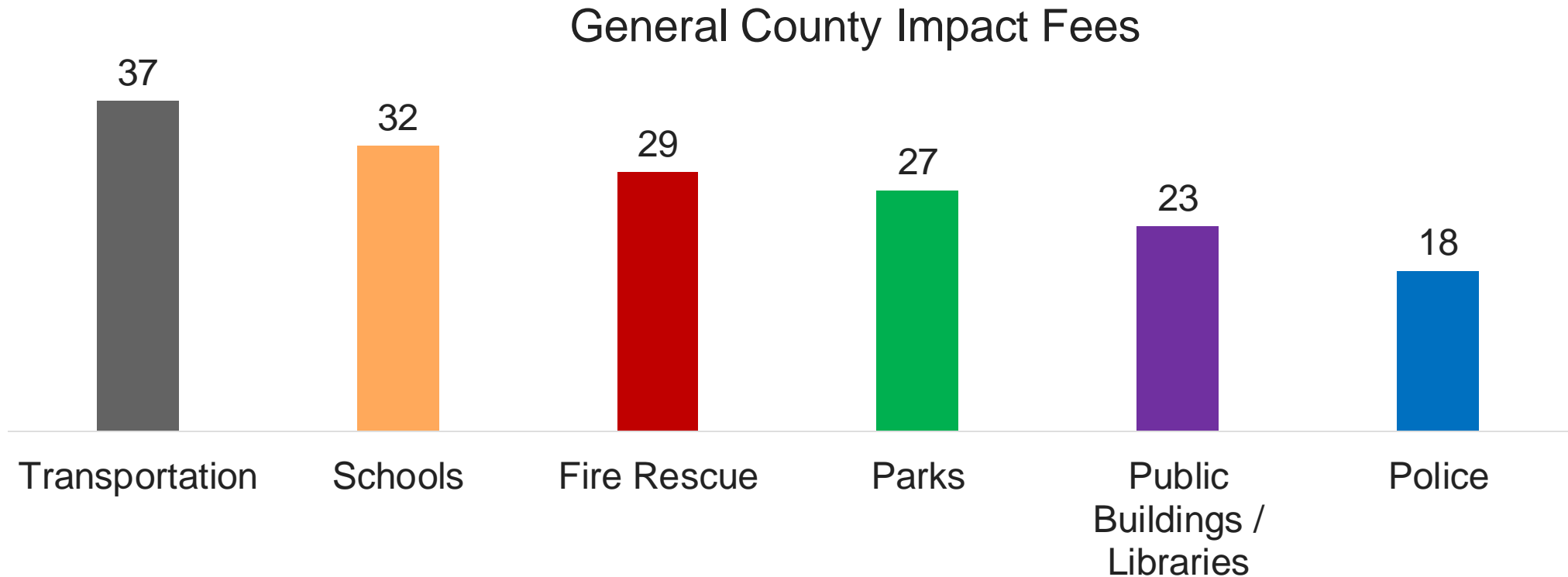
163.31801

An impact fee must meet certain minimum statutory criteria

- Calculation is based on the most recent and localized data
- Rational nexus
- Accounting in a separate fund

# Impact Fee Statistics

- 24 of Florida's 67 counties do not implement general impact fees.
  - Most have experienced negative or little amounts of growth
- Typical purposes for which impact fees are collected:



# Utility Impact Fees

## System Development Charge, Connection Fees, Capacity Charges

- Surveyed municipalities (83)
  - **Average Water Impact Fee**  
**\$2,000 per ERU**
  - **Average Wastewater**  
**\$2,900 per ERU**



Treatment/Supply



Transmission/Distribution



Collection



Treatment

# Can an Impact Fee pay for this?

1. The City/County has experienced significant growth and needs a **new police officer** to keep up with the demand for services.

NO



2. A large development is occurring, and the City/County needs a **new fire station** in order to serve the growth.

YES



# How is an Impact Fee Calculated?



- Existing: Fixed Assets
- Future: CIP

- Examples:
  - *Functional Population*
  - *Connections*
  - *Vehicle Miles Traveled*
  - *Acreage*

- Unit cost of capacity
- Scaled by land use type and property size



# Governmental Capacity

- Estimation of the number of people present
- Common unit of measurement for the impact of different land uses
- Rational nexus used for **governmental** impact fees



## Residential

Average # of occupants

Unit = 1 Household



## Non-Residential

Average # of employees and visitors

Unit = 1,000 Sq Ft

# Functional Population



**Residential**

**1.309 people per household**

**Non-Residential**



**0.916 people per 1,000 square feet**

Land Use	Functional Population	Equivalent Dwelling Unit	Unit
Residential	1.309	1.00	Household
Non-Residential	0.916	0.70	1,000 sq ft

# Utility Facility Capacity

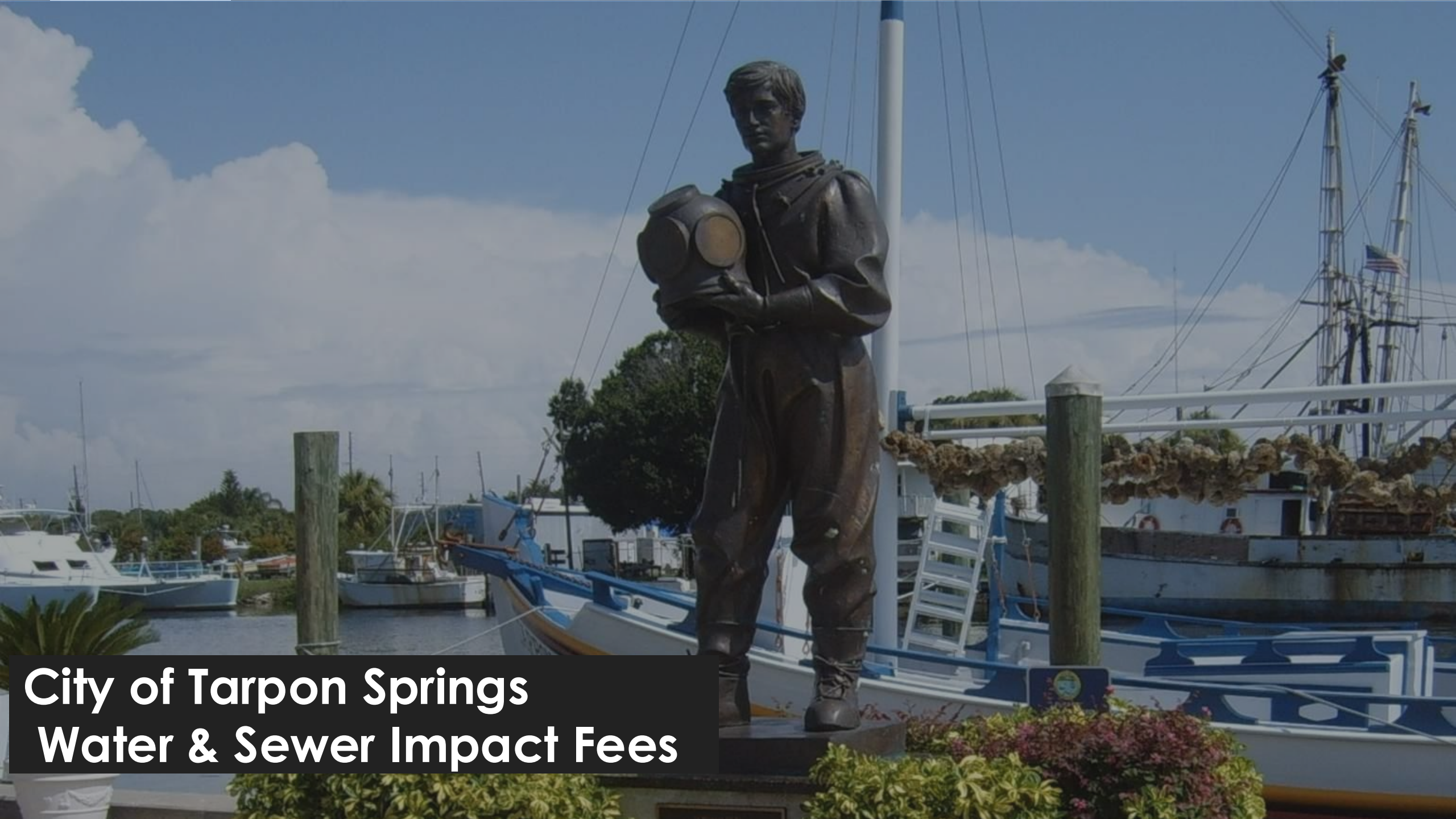
- Measured in **Equivalent Residential Connections** (ERC)
  - Based on level of service (LOS) in gallons per day (gpd)
- Rational nexus used for **utility** impact fees
- Impact fees scaled using the AWWA meter equivalency

Meter Size	AWWA Equiv.
3/4"	1.0
1"	2.5
1.5"	5.0
...	...



$$\begin{aligned} &\text{Capacity: } 5,000,000 \text{ gd} \\ &\quad \div \\ &\text{LOS: } 300 \text{ gpd} \\ &\quad = \\ &\text{16,667 ERCs} \end{aligned}$$





# City of Tarpon Springs Water & Sewer Impact Fees

# Water & Sewer Impact Fees

## “Buy-In” Cost Methodology

- Excess capacity exists

Credits for outstanding debt & grant funded assets

### Water

Treatment  
Transmission  
Supply



**\$ 63,275,367**  
Existing Facility Cost



**\$ 2,253** per ERC

Divided by existing ERCs

### Sewer

Collection  
Treatment  
Disposal



**\$ 31,385,392**  
Existing Facility Cost



**\$ 1,573** per ERC



# City of Wildwood Recreation Impact Fees

# Recreation Impact Fees

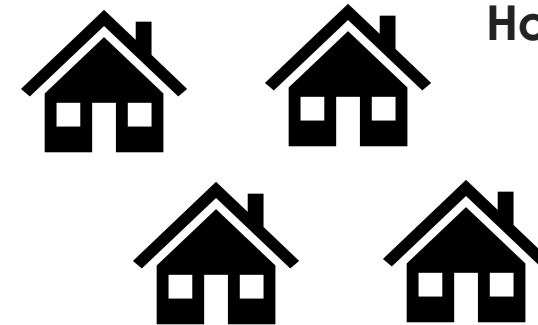
## “Incremental” Cost Methodology

- Little to no excess capacity
- Significant planned projects



**\$ 7,783,819**  
**Projected Facility  
Expansion Costs**

Divided by future units  
served



**\$ 690.54** per  
Household

No benefit to  
Non-Residential  
land use = No Fee

Excluded Villages  
Dev. Districts



**Dade City  
Law Enforcement Impact Fees**



# House Bill 337 – Reforms to Florida Impact Fee Law



**Approved by the Governor on June 4th, 2021**

- 1) Clarifies the terms “infrastructure” and “public facilities”
- 2) Requires an affidavit related to compliance with the statute
- 3) **Provides “Phase-In Limitations” on Increases**

# “Phase-In Limitations” on Increases



- ✓  $\leq 25\%$  Two Equal Annual Increments
- ✓  $>25\% \leq 50\%$  Four Increments
- ✓  $>50\%$  Not Allowed
- ✓ Increase only once every 4 years

## Exceeding the Limitations

1. A “Demonstrated Need” study that outlines ***extraordinary circumstances***
2. Two publicly noticed workshops
3. Two-thirds approval

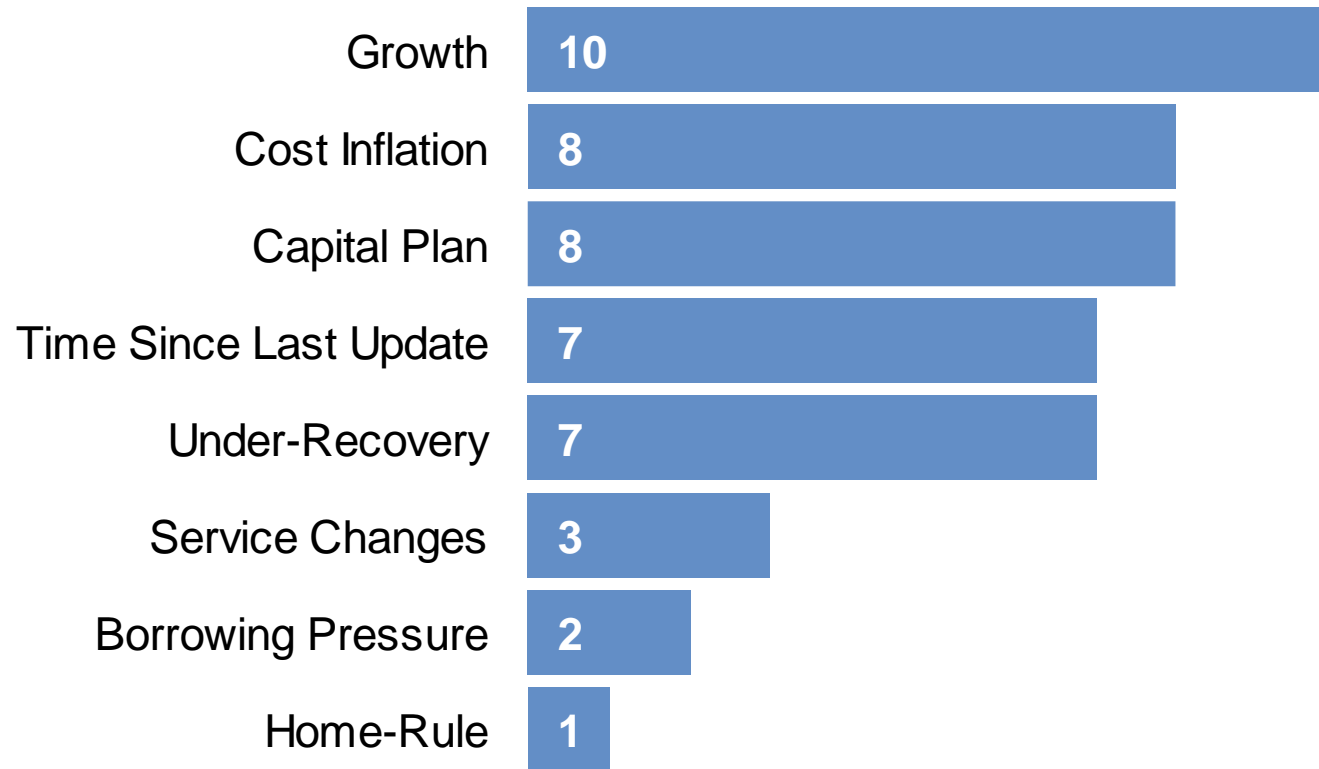
# “Extraordinary Circumstances”

- Significant increases to **costs** of facilities
  - Existing taxpayers may fund the gap
- Significant **growth and property development**
  - New development may be unevenly charged
- If impact fees are **arbitrary** or there is **insufficient documentation**



# “Extraordinary Circumstances”

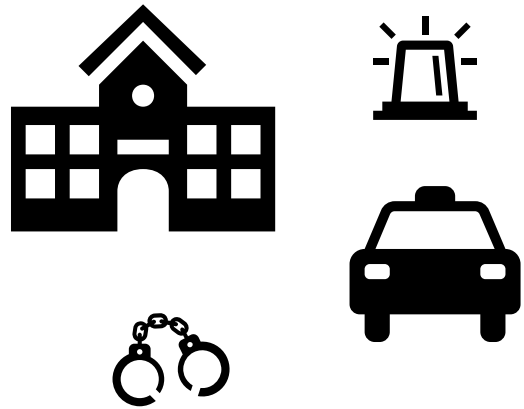
## Demonstrated-Need Studies Analyzed (11)



# Law Enforcement Impact Fee

## “Buy-In” Cost Methodology

- Excess capacity
- New Police HQ



**\$ 2,203,343**  
**Existing Facility**  
**Cost**

County Sales  
Tax funded  
removed

Divided by existing  
units served



**\$ 449.30** per Single Family House



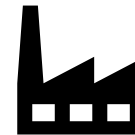
**\$ 323.50** per Multi Family Unit



**\$ 462.78** per 1,000 Retail Sq Ft



**\$ 220.16** per 1,000 Office Sq Ft



**\$ 76.38** per 1,000 Industrial Sq Ft



**\$ 44.93** per 1,000 Warehouse Sq Ft

# Case Study: Dade City, FL

Existing Impact Fee:  
\$0.05 per square foot

	Calculated	Existing	Increase
Single Family Household	<b>\$ 449.30</b> per Household	<b>\$ 94.45</b> per Household	<b>376%</b>

	Calculated	Existing	Increase
Retail	<b>\$ 462.78</b> per 1,000 Sq Ft	<b>\$ 50.00</b> per 1,000 Sq Ft	<b>826%</b>



# TO THE POINT

WITH ALEX BELL

**BREAKING NEWS**

EXPLOSION CAUSES INJURIES  
Fort Worth, Texas

ABC  
ALEX BELL

# Sheetz vs. County of El Dorado, California

The legal saga began in 2016 when George Sheetz built a small manufactured home on a vacant tract in the City of Placerville, CA.

The county stuck Sheetz with a \$24,000 “traffic impact mitigation fee” to fund local roads, highways and bridges.

Sheetz paid up, but then sued.





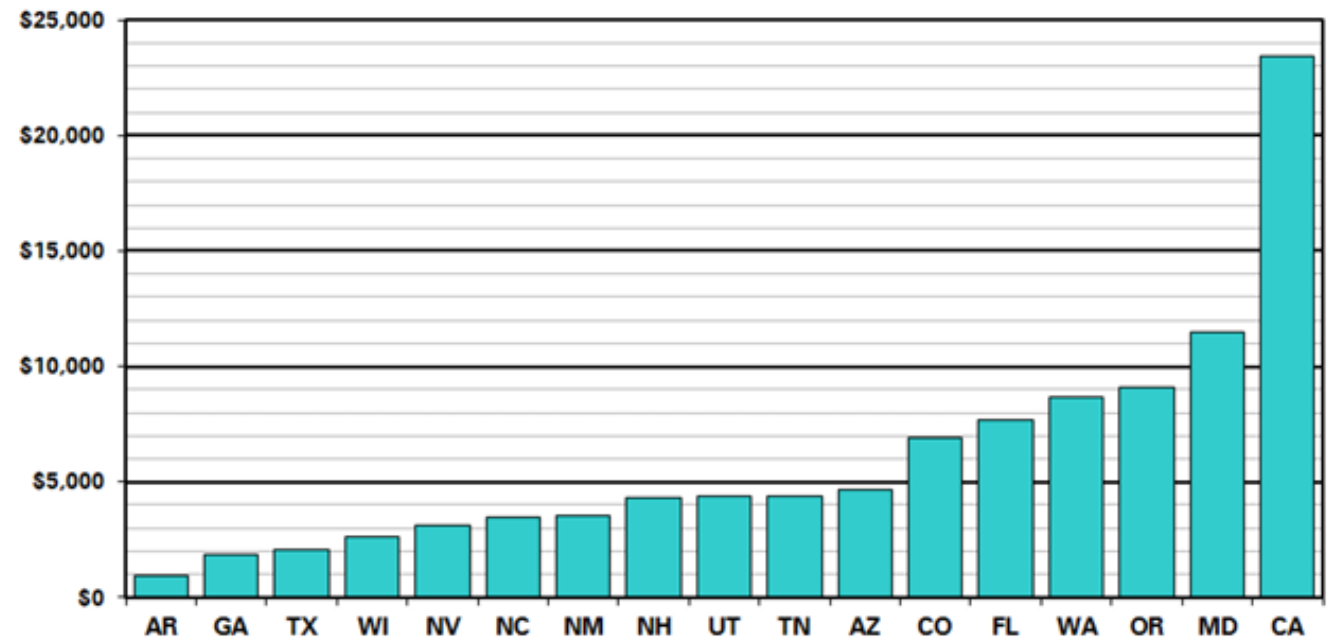
# California Impact Fees

During the high-growth decades of the 1950s and '60s, local governments could assume that development would pay for itself through increased property tax revenue.

That changed in 1978, when voters passes proposition 13, capping local property taxes and the ability to raise new taxes.

El Dorado County is in the middle of a 20-year plan to spend over \$800 million improving the area's roads.

Figure 3. Average Single-Family Non-Utility Fees by State, 2015



# Sheetz vs. County of El Dorado, California

Sheetz argued that the county was required to make a case-by-case determination that the \$24,000 fee was necessary.

The courts had adopted a rule that barred property owners from challenging legislative exactions under the nexus and proportionality tests.

George lost in the state courts.

George's complaint was dismissed by the trial court without the court ever addressing whether the fee was justified.



# Rational Nexus Test

The test for whether a permit condition goes too far comes from two landmark Supreme Court decisions, *Nollan v. California Coastal Commission* (1987) and *Dolan v. City of Tigard* (1994).

Must satisfy a two-part “essential nexus” and “rough proportionality” test, often called the *Nollan/Dolan* test or rational nexus test

James Nollan wanted to rebuild an existing bungalow on his beachfront property.



Dolan applied for a permit to expand the store and pave the parking lot.



# Sheetz vs. County of El Dorado, California

In a unanimous decision, the justices agreed with Sheetz that conditions on building permits should be subject to heightened scrutiny.

The Court sent the case back to the California courts, where Sheetz will now present arguments and evidence showing that the impact fee violated the nexus and proportionality standards.

The court's ruling "does not address or prohibit the common government practice of imposing permit conditions, such as impact fees, on new developments"

The Supreme Court did not reach the question whether the impact fee violated *Nollan/Dolan*.





Questions/Discussion



**Peter Napoli**

Consulting Manager

(904) 671-0117

Peter.Napoli@Stantec.com