

ORDINANCE NO. 2019-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA, REGARDING IMPACT FEES; AMENDING APPENDIX E TO THE NASSAU COUNTY CODE OF ORDINANCES ENTITLED COMPREHENSIVE IMPACT FEE ORDINANCE; AMENDING SECTION 1.02 ENTITLED DEFINITIONS; AMENDING SECTION 1.03 ENTITLED LEGISLATIVE FINDINGS; REPEALING AND REPLACING SECTION 1.07 ENTITLED ADOPTION OF IMPACT FEE STUDIES; REPEALING AND REPLACING ARTICLE II ENTITLED PARKS AND RECREATIONAL FACILITIES IMPACT FEES; PROVIDING FOR NOTICE; PROVIDING FOR CODIFICATION OF APPENDIX E TO THE NASSAU COUNTY CODE OF ORDINANCES AS A NEW CHAPTER 34 WITHIN THE NASSAU COUNTY CODE; PROVIDING FOR SEVERABILITY, CONFLICTS, LIBERAL CONSTRUCTION, AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA:

SECTION 1. AMENDMENT OF SECTION 1.02 OF APPENDIX E, NASSAU COUNTY CODE OF ORDINANCES. Section 1.02 of Appendix E to the Nassau County Code of Ordinances entitled “Definitions” is hereby amended as follows:

Sec. 1.02. - General Definitions.

When used in this Chapter, the following terms shall have the following meaning, unless the context otherwise clearly requires:

* * *

Impact Fee shall mean collectively and individually, as the context may require, the Park and Recreation Impact Fee, the Fire Rescue Impact Fee, the Administrative Facilities Impact Fee, the Educational System Impact Fee, and the Law Enforcement Impact Fee.

* * *

Impact Fee Study shall mean individually and collectively, as the context may require, the study prepared by Duncan Associates entitled "Park, Fire Rescue, Law Enforcement and Administrative Facility Impact Fee Study for Nassau County, Florida" dated April 2015, the study prepared by Fishkind and Associates, Inc., entitled "Nassau County School Impact Fee Study" dated November 7, 2011, and the study prepared by GAI Consultants entitled "Park and Recreation Impact Fee Study," dated June 2019.

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[Underline indicates additions; strikethrough indicates deletions]

SECTION 2. AMENDMENT OF SECTION 1.03 OF APPENDIX E, NASSAU COUNTY CODE OF ORDINANCES. Section 1.03 of Appendix E to the Nassau County Code of Ordinances entitled "Legislative Findings" is hereby amended as follows:

Sec. 1.02. – Legislative Findings.

It is hereby ascertained, determined and declared:

- A. Pursuant to Article VIII, Section 1, Florida Constitution, and Sections 125.01 and 125.66, Florida Statutes, the Nassau County Board of County Commissioners has all powers of local self-government to perform County functions and render County services and facilities except when prohibited by law, including the authority to adopt and impose Impact Fees through a County ordinance.
- B. Florida Statutes § 163.3202(3) encourages the use of innovative land development regulations, including the use of Impact Fees, to implement the goals, objectives and policies of a County's comprehensive plan.

- C. Future growth represented by capital facilities impact construction will require improvements and additions to capital facilities to accommodate and maintain the levels of service adopted by the County, and, accordingly, should contribute its fair share to the cost of improvements and additions to the capital facilities that are required to accommodate the use of such facilities by growth.
- D. The required improvements and additions to the capital facilities needed to accommodate existing development at the adopted level of service shall be financed by revenue sources other than Impact Fees.
- E. Implementation of an Impact Fee structure to require future capital facilities impact construction to contribute its fair share of the cost of improvements and additions to capital facilities is an integral and vital element of the management of growth.
- F. Based upon the study prepared by Duncan Associates entitled "Park, Fire Rescue, Law Enforcement and Administrative Facility Impact Fee Study for Nassau County, Florida" dated April 2015, as partially updated by the study prepared by GAI Consultants entitled "Park and Recreation Impact Fee Study," dated June 2019, the Commission now desires to adopt and amend its a comprehensive impact fee ordinance, including provisions for the imposition of park impact fees, fire rescue impact fees, law enforcement impact fees, administrative facilities impact fees, and educational system impact fees.
- G. The school board previously authorized an Impact Fee study to be completed by Fishkind and Associates, Inc., entitled "Nassau County School Impact Fee

Study," dated November 7, 2011, and then submitted same to the Board of County Commissioners.

- H. The Commission has determined that the adoption and updating of ~~a~~ the comprehensive Impact Fee ordinance and the collection of Impact Fees for parks and recreational facilities, fire rescue, law enforcement, administrative facilities and educational facilities are in the best interests of the citizens of Nassau County, Florida.
- I. In F.S. Ch. 420, the Florida Legislature directly recognizes the critical shortage of affordable housing in the State of Florida for very low to moderate income families, the problems associated with rising housing costs in the state, and the lack of available housing programs to address these needs. In recognition of these problems and the state's encouragement to local governments to work in partnership with the state and private sector to solve these housing problems, the County finds a need for local programs to stimulate and provide for the development of affordable housing for low and very-low income persons.
- J. The Commission desires to provide incentives to develop and provide affordable housing stock within the County so that low and very-low income persons who desire to live and to work in the County may have access to housing, and thus to offset the negative consequences of the shortage of such housing.
- K. To accomplish this objective, the Commission finds that it is fair and reasonable to provide for deferral of Impact Fees for affordable housing to reduce the

burden of Impact Fees on low and very-low income persons and encourage the development of affordable housing.

L. Some of the Impact Fees collected by the County pursuant to this Chapter may be used to pay existing debt related to the construction of capital facilities or for previously approved projects. The Commission legislatively determines that each of these capital facilities or previously approved projects that are funded by Impact Fees has a rational nexus to the impacts generated by new development that contributes Impact Fees towards the funding of these facilities and that there is available capacity to serve those properties from the debt funded facilities or previously approved projects.

[Underline indicates additions; strikethrough indicates deletions]

SECTION 3. REPEAL AND REPLACEMENT OF SECTION 1.07 OF APPENDIX E, NASSAU COUNTY CODE OF ORDINANCES. Section 1.07 of Appendix E to the Nassau County Code of Ordinances entitled "Adoption of Impact Fee Studies" is hereby repealed in its entirety and replaced with the following:

- A. The County previously adopted the study entitled "Park, Fire Rescue, Law Enforcement and Administrative Facility Impact Fee Study for Nassau County, Florida" prepared by Duncan Associates, dated April 2015. Such Impact Fee study is attached to Nassau County Ordinance No. 2016-02 and is hereby incorporated by reference.
- B. The County previously adopted the "Nassau County School Impact Fee Study," dated November 7, 2011, prepared by Fishkind and Associates, Inc. Such

Impact Fee study is attached to Nassau County Ordinance No. No. 2016-02 and is hereby incorporated by reference.

- C. The County hereby adopts and incorporates by reference, the study entitled “Park and Recreation Impact Fee Study,” prepared for the County by GAI Consultants dated June 2019, including the assumptions, conclusions and findings in such study as to the determination of anticipated costs of the additions to the County Park System required to accommodate growth. The Park and Recreation Impact Fee Study is attached to the Ordinance from which this Section is derived as Appendix “A.”

SECTION 4. REPEAL AND REPLACEMENT OF ARTICLE II OF APPENDIX E, NASSAU COUNTY CODE OF ORDINANCES. Article II of Appendix E to the Nassau County Code of Ordinances entitled “Parks and Recreational Facilities Impact Fees” is hereby repealed in its entirety and replaced with the following:

ARTICLE II. - PARKS AND RECREATIONAL FACILITIES IMPACT FEES

Section 2.01. - Definitions applicable to Park and Recreation Impact Fees.

In addition to the general definitions contained in section 1.02 hereof, the following terms shall have the following meanings as used in this Article:

Community Park shall mean a park, which is designed to serve the recreation needs of several communities in the unincorporated areas of the County generally within a one- to five-mile service radius. They may include restrooms, onsite parking, large landscaped areas, community centers, lighted sports fields, athletic complexes, large swimming pools, and other specialized recreational facilities. These parks are generally at least ten (10) acres in size.

Community Park and Recreation Benefit District or *Benefit District* shall mean the geographical areas established by the County pursuant to section 2.04 hereof.

County Park System shall include all regional parks and community parks owned and operated by the County, including active parks, passive parks, water access sites,

and associated recreational facilities and buildings, but does not include those parks and recreational facilities that are owned and operated by private entity, the federal government, or a city or those parks and recreational facilities that are owned and operated by the State of Florida. For the purposes of this chapter, the term "County Park System" also does not include Neighborhood Parks.

Duplex shall mean a type of Multi-Family Dwelling Unit consisting of a residential building containing two attached Single-Family Houses on one single lot or parcel of land.

Neighborhood Park shall mean a local park, which is typically less than ten (10) acres in size and may include landscaping and recreational improvements such as sandboxes, play sculpture, playground equipment, benches, shelters, trees and fencing. These parks are used by the residents of one (1) or more nearby neighborhoods, typically those within a half-mile radius of the park.

Park and Recreation Impact Fee shall mean the Park and Recreation Impact Fee imposed pursuant to section 2.03 hereof.

Park and Recreation Impact Fee Study shall mean the study entitled "Park and Recreation Impact Fee Study," prepared for the County by GAI Consultants dated June 2019, attached to the Ordinance from which this Article is derived as Appendix "C."

Quadruplex means shall mean a type of Multi-Family Dwelling Unit consisting of a residential building containing four attached Single-Family Houses on one single lot or parcel of land.

Regional Park shall mean either water-based recreation sites, sites with specialized recreational facilities, or a large, resource-based park that are generally at least thirty (30) acres or more in size and intended to serve residents of the entire unincorporated area, as well as residents of the municipalities. These parks contain recreation uses, such as water-based recreation, beach access sites, boating facilities, camping, fishing, trails and nature study, but may also provide specialized recreational facilities, such as a sports complex.

Section 2.02. - Legislative Findings Applicable to Park and Recreation Impact Fees. The Board of County Commissioners of Nassau County, Florida, hereby finds, determines and declares that:

A. The Board has determined that ad valorem tax revenue and other revenues will not be sufficient to provide the capital improvements and additions to the

County Park System that are necessary to accommodate new Residential Construction within the County.

B. The standard of service to be provided in the County Park System and the allocation of projected costs required to accommodate the needs of future Residential Construction as presented in the Park and Recreation Impact Fee Study, has been approved and adopted by the County and such study is found to be consistent with the Comprehensive Plan of the County.

C. The County has the responsibility to provide parks and recreational facilities in the County Park System. Residential Construction occurring within the County impacts upon the County Park System; therefore, the Park Impact Fee shall be imposed in all unincorporated areas of the County and within all Cities that have consented to the imposition of the Park Impact Fee.

D. There is a rational nexus between future growth, as measured by new Residential Construction, and the need to expand the County Park System through the acquisition and construction of new parks and recreational facilities in order to maintain the standards of service currently provided by the County Park System.

E. Development necessitated by growth contemplated in the comprehensive plan and the Park and Recreation Impact Fee Study will require improvements and additions to the County Park System to accommodate the new development generated by such growth and maintain the standards of service currently provided by the County Park System.

F. Future growth, as represented by Residential Construction, should contribute its fair share to the cost of improvements and additions to the County Park System that are required to accommodate the impact generated by such growth.

G. Implementation of a Park and Recreation Impact Fee to require future Residential Construction to contribute its fair share to the cost of required park and recreation capital improvements and additions is an integral and vital element of the regulatory plan of growth management incorporated in the comprehensive plan of the County.

H. The imposition of a Park and Recreation Impact Fee is to provide a source of revenue to fund the construction or improvement of the County Park System necessitated by growth.

I. The County Park System benefits all residents of the County and, therefore, the Park and Recreation Impact Fee shall be imposed in all unincorporated areas of the County and within the municipal limits of the municipalities that have consented by interlocal agreement pursuant to section 1.05 hereof, except for the City of Fernandina Beach, which provides its own park facilities.

J. The Board of County Commissioners expressly finds that the improvements and additions to the County Park System funded by the Park and Recreation Impact

Fee provide a benefit to all Residential Construction within the unincorporated areas of the County and those incorporated areas that have consented by interlocal agreement to inclusion in the County's Park and Recreation Impact Fee program in excess of the amount of the Park and Recreation Impact Fee.

K. The purpose of this Article is to require payment of Park and Recreation Impact Fees by those who engage in Residential Construction and to provide for the cost of capital improvements to the County Park System which are required to accommodate such growth. This Article shall not be construed to permit the collection of Park and Recreation Impact Fees in excess of the amount reasonably anticipated to offset the demand on the County Park System generated by such Residential Construction.

L. The required improvements and additions to the County Park System needed to eliminate any deficiencies shall be financed by revenue sources of the County other than Park and Recreation Impact Fees.

M. The data set forth in the Park and Recreation Impact Fee Study, which was employed in the calculation of the Park and Recreation Impact Fee rates imposed herein, is the most recent and localized data available for the County Park System at the time the Impact Fee study was developed. Based upon subsequent cost trends, existing levels of service in the County, and the County's current funding abilities, the Commission finds and determines that the data set forth in the Park and Recreation Impact Fee Study is still relevant and valid for purposes of the Park and Recreation Impact Fee and results in a conservative rate to ensure that Residential Construction is not paying more than its fair share of the costs of providing the necessary improvements and additions to the County Park System necessitated by growth.

N. The administrative fee set forth in section 2.04(H) hereof constitutes the County's actual costs for collection of the Park and Recreation Impact Fee including the actual costs related to the administration and the collection process.

Section 2.03. - Imposition of Park and Recreation Impact Fees.

A. All Residential Construction occurring within the unincorporated area of the County and within the municipal boundaries of any City that has consented to the imposition of the Parks and Recreation Impact Fee shall pay the Park and Recreation Impact Fee established in this Section at the time of issuance of a building permit for such Residential Construction.

B. All Residential Construction occurring within the unincorporated area of the County and within the municipal limits of the municipalities that have consented by interlocal agreement pursuant to section 1.05 hereof shall pay the following community Park and Recreation Impact Fee and regional Park and Recreation Impact Fee:

Type of Dwelling Unit	Persons Per Dwelling Unit	Per Capita Park and Recreation Impact Fee	Total Park and Recreation Impact Fee Per Dwelling Unit
Single-Family Houses (Detached)	2.65	\$773.17	\$2,048.90
Multi-Family (Except for Duplex/Quadruplex)	1.72	\$773.17	\$1,329.85
Duplex/Quadruplex	2.43	\$773.17	\$1,878.80
Mobile Home	2.87	\$773.17	\$2,219.00

C. Annually on October 1, the Park and Recreation Impact Fee shall automatically be adjusted by the percent change for the latest twelve-month period as of the previous May 1 of the Consumer Price Index for all Urban Consumers for the U.S. City Average for all Services as published monthly by the U.S. Department of Commerce, Bureau of Labor Statistics. Provided, however, that in the event the Commission determines that the requested rate adjustment will cause Residential Construction to pay more than its fair share of the costs of improvements and additions to the County Park System that are necessary to accommodate the expected impact generated by such growth, said rate adjustment will be decreased accordingly. The adjusted Park and Recreation Impact Fee rates shall take effect on October 1 of each year subject to the notice provisions in section 7.12.

Section 2.04. - Use of Monies.

A. The Commission hereby establishes four (4) sub-County Community Park and Recreation Benefit Districts, corresponding with census tracts for the County as further depicted in the 2010 Census Tract Reference Map. All Park and Recreation Impact Fees collected within a Park and Recreation Benefit District shall be expended either for the purpose of providing growth-necessitated capital improvements to a Community Park within such Benefit District or for the purpose of providing growth-necessitated capital improvements to a Regional Park providing a Countywide benefit, as applicable.

B. The Commission hereby establishes four (4) "Community Park and Recreation Impact Fee Trust Funds" to correspond to the four (4) Community Park and Recreation Impact Fee Benefit Districts described in subsection A. above. The Commission hereby creates the "Regional Park and Recreation Impact Fee Trust

Fund.” Such funds shall be maintained separate and apart from all other County accounts.

C. Upon receipt by the County, Park and Recreation Impact Fees shall be deposited into the appropriate Community Park and Recreation Impact Fee Trust Fund that corresponds with the Community Park and Recreation Impact Fee Benefit District in which the Residential Construction is occurring or within the Regional Park and Recreation Impact Fee Trust Fund, as applicable.

D. Park and Recreation Impact Fees shall not be used for any expenditure that would be classified as a maintenance or repair expense.

E. Funds on deposit in the Park and Recreation Impact Fee trust funds, as established in subsection A. above, shall be used solely for the purpose of providing growth-necessitated capital improvements to a community park within each corresponding sub-County district or for the purpose of providing growth-necessitated capital improvements to a regional park providing a Countywide benefit, as applicable. However, to the extent that a Community Park provides reasonable benefits beyond the sub-County district within which it is located, it may be funded with Park and Recreation Impact Fee funds collected from an adjacent sub-County district. Prior to encumbering any Park and Recreation Impact Fee funds in this manner, the County Manager or designee shall make a written determination that (1) the Community Park capital improvement will substantially benefit the development in the sub-County district from which the Park and Recreation Impact Fees have been collected; (2) the planned community park capital improvements is of a nature such that it will add capacity to the County Park System beyond the sub-County district in which it is situated; and (3) the demand for the community park capital improvement is reasonably attributable to development in the sub-County district from which the Park and Recreation Impact Fees have been collected.

F. The monies deposited into the Park and Recreation Impact Fee trust accounts shall be used solely to provide capital improvements or additions to the County Park System as necessitated by growth as projected in the Impact Fee study, as these improvements may be amended from time-to-time, including, but not limited to:

1. Land acquisition, including any cost of acquisition or condemnation;
2. Fees for professional services, including but not limited to architecture, engineering, surveying, landscaping, soils and material testing, legal, appraisals, and construction management;
3. Design and construction plan preparation;
4. Site development and on-site and off-site improvements incidental to the construction thereto;
5. Any permitting or application fees necessary for the construction;
6. Design and construction of new parks and recreational facilities;
7. Design and construction of new drainage facilities required by the construction of parks and recreational facilities or improvements thereto;

8. Relocating utilities required by the construction of parks and recreational facilities or improvements or additions thereto;
9. Landscaping;
10. Construction management and inspection;
11. Surveying, soils, and materials testing;
12. Acquisition of capital equipment for the County Park System;
13. Repayment of monies borrowed from any budgetary fund of the County which were used to fund growth-necessitated capital improvements to the County Park System as provided herein;
14. Payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the County to fund growth-necessitated improvements and additions to the County Park System subsequent to the effective date of this chapter; and
15. Costs related to the administration, collection, and implementation of the Park and Recreation Impact Fees.

G. The monies deposited into the Park and Recreation Impact Fee trust accounts shall be used solely to provide capital improvements or additions to the County Park System as necessitated by growth as projected in the Impact Fee study and shall not be used for any expenditure that would be classified as a maintenance or repair expense. A report will be prepared annually by the County reflecting the collection and expenditures of Park and Recreation Impact Fees by the County during the previous year.

H. Any Park and Recreation Impact Fee funds on deposit which are not immediately necessary for expenditure shall be invested by the County. All income derived from such investments shall be deposited in the appropriate Park and Recreation Impact Fee trust account and used as provided herein.

I. The County may retain 1.5 percent of all Park and Recreation Impact Fees received or the actual costs of administration and collection, whichever is less, as an administrative fee to defray the costs of administering the Park and Recreation Impact Fees. The Nassau County Clerk of Court may retain an additional 0.5 percent of all Park and Recreation Impact Fees received or the actual costs of administration and collection, whichever is less, as an administrative fee to defray the costs of administering the Park and Recreation Impact Fees.

J. The Park and Recreation Impact Fees collected pursuant to this Article shall be returned to the then current owner of the property on behalf of which such fee was paid, if such fees have not been expended or encumbered prior to the end of the fiscal year immediately following the ninth anniversary of the date upon which such fees were paid. Refunds shall be made only in accordance with the following procedure:

1. The then present owner shall petition the County for the refund within six (6) months following the end of the calendar quarter immediately following nine (9) years from the date on which the fee was received.

2. The petition for refund shall be submitted to the County Manager and shall contain:

(a) A notarized sworn statement that the petitioner is the present owner of the property on behalf of which the Park and Recreation Impact Fee was paid;

(b) A copy of the dated receipt issued for payment of the Park and Recreation Impact Fee or such other record as would evidence payment; and

(c) A certified copy of the latest recorded deed or a copy of the most recent ad valorem tax bill.

3. Within sixty (60) days from the date of receipt of a petition for refund, the County Manager will advise the petitioner and the Commission of the status of the Park and Recreation Impact Fee requested for refund, and if such Park and Recreation Impact Fee has not been expended or encumbered within the applicable time period, then it shall be returned to the petitioner. For the purposes of this section, fees collected shall be deemed to be spent or encumbered on the basis of the first fee in shall be the first fee out.

SECTION 5. NOTICE. In accordance with Section 7.12 of Appendix E. of the Nassau County Code of Ordinances, the County Administrator is hereby directed to publish a notice once in a newspaper of general circulation within the county which notice shall include: (A) a brief and general description of the Park and Recreation Impact Fee, (B) a description of the geographic area in which the impact fee will be collected; (C) the impact fee rates to be imposed for each land use category; and (D) the date of implementation of the impact fee rates set forth in the notice, which date shall not be earlier than ninety (90) days after the date of publication of the notice.

SECTION 6. CODIFICATION OF APPENDIX E, NASSAU COUNTY CODE OF ORDINANCES AS CHAPTER 34 OF THE NASSAU COUNTY CODE OF ORDINANCES. It is the intention of the Board of County Commissioners and it is hereby ordained that Appendix E to the Nassau County Code of Ordinances entitled "Comprehensive Impact Fee Ordinance," as amended by this Ordinance, shall be codified as Chapter 34 of the Nassau County Code of Ordinances. The sections of this Ordinance may be renumbered or relettered to accomplish such intentions and the word "Ordinance" shall be changed to "Section" or other appropriate word.

SECTION 7. MISCELLANEOUS.

A. Severability. If any clause, section or provision of this Ordinance shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said chapter shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.

B. Conflicts. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

C. Liberal Construction. The terms and provisions of this Ordinance shall be liberally construed to affect the purpose for which it is adopted.

D. Effective Date. The Clerk shall file a certified copy of this Ordinance with the Department of State within ten days of its adoption and the Effective Date of this Ordinance shall be _____.

DULY ADOPTED this ____ day of _____, 2019.

**BOARD OF COUNTY COMMISSIONERS
OF NASSAU COUNTY, FLORIDA**

JUSTIN M. TAYLOR
Its: Chairman

Attest as to Chairman's signature:

JOHN A. CRAWFORD
Its: Ex-Officio Clerk

APPROVED AS TO FORM BY THE
NASSAU COUNTY ATTORNEY:

MICHAEL S. MULLIN

APPENDIX A

Park and Recreation Impact Fee Study