

ORDINANCE NO. 2019-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA, REGARDING IMPACT FEES; AMENDING ORDINANCE 2019-25 OF THE NASSAU COUNTY CODE OF ORDINANCES ENTITLED COMPREHENSIVE IMPACT FEE ORDINANCE SPECIFICALLY AMENDING SECTION 2.01 ENTITLED DEFINITIONS APPLICABLE TO PARK AND RECREATION IMPACT FEES; AMENDING SECTION 2.04 ENTITLED USE OF MONIES; PROVIDING FOR SEVERABILITY, CONFLICTS, LIBERAL CONSTRUCTION, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Nassau County, in Ordinance 2019-25 adopted and updated the Comprehensive Impact Fee Ordinance; and

WHEREAS, the Board of County Commissioners of Nassau County, Florida has found it necessary, and in the best interest of the citizens of Nassau County, to amend Ordinance No. 2019-25.

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

SECTION 1. AMENDMENT OF SECTION 2.01, DEFINITIONS APPLICABLE TO PARK AND RECREATION IMPACT FEES, OF ARTICLE II, PARKS AND RECREATIONAL FACILITIES IMPACT FEES, OF THE NASSAU COUNTY CODE OF ORDINANCES. Section 2.01 of Article II to the Nassau County Code of Ordinances entitled "Definitions Applicable to Park and Recreation Impact Fees" is hereby amended as follows:

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. AMENDMENT OF SECTION 2.04, USE OF MONIES, OF ARTICLE II, PARKS AND RECREATIONAL FACILITIES IMPACT FEES, OF THE NASSAU COUNTY CODE OF ORDINANCES. Section 2.04 of Article II to the Nassau County Code of Ordinances entitled "Use of Monies" is hereby amended as follows:

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 attached hereto as Exhibit "_____". 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~~ the County Park System within such Benefit District or, in another Benefit District pursuant to Section 2.04(E) of this Article ~~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~~ the County Park System ~~park within each corresponding sub-County district Park and Recreation Benefit 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 growth-necessitated capital improvement to the County Park System~~ provides reasonable benefits beyond the ~~sub-County district~~ Park and Recreation Benefit District within which it is located, it may be funded with Park and Recreation Impact Fee funds collected from ~~an adjacent sub-County district~~ another Park and Recreation Benefit 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~~ County Park System capital improvement will ~~substantially reasonably~~ benefit the development in the ~~sub-County district~~ Park and Recreation Benefit District from which the Park and Recreation Impact Fees have been collected; (2) the planned ~~community park~~ County Park System capital improvements ~~is~~ are of a nature such that it will add capacity to the County Park System beyond the ~~sub-County district~~ Park and Recreation Benefit District in which it is situated; and (3) the demand for the ~~community park~~ County Park System capital improvement is reasonably attributable to development in the ~~sub-County district~~ Park and Recreation Benefit 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 Office of Management and Budget 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 3. 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. This Ordinance shall take effect in accordance with law.

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