



2022-398

REQUEST FOR LEGAL SERVICES-GENERAL(RLS-G)

DATE OF REQUEST: 4-13-22	DEPT/DIV: OMB
REQUESTER(S): Cindy Wood	EXTENSION/EMAIL: 6006 cwood@nassaucountyfl.com
PRIORITY CLASSIFICATION (Urgent/Standard): Standard	
REQUESTED RESPONSE DEADLINE:	
TITLE OF ITEM OR DOCUMENT: Financial Action Form-Impact Fee Usage Justification for Westside Regional Park	
CRITICAL EVENT/DATE (if any): N/A	
SERVICE REQUIRED (check all that apply): <input type="checkbox"/> Ordinance Drafting <input type="checkbox"/> Ordinance Review <input type="checkbox"/> Resolution Drafting <input type="checkbox"/> Resolution Review <input type="checkbox"/> Staff Report Review <input type="checkbox"/> Legal Opinion <input checked="" type="checkbox"/> Legal Review <input type="checkbox"/> Approve as to Form <input type="checkbox"/> Legal Ad <input type="checkbox"/> Critical Dates Calendar <input type="checkbox"/> Other	
ATTACHMENTS (if any): Financial Action Form-Impact Fee Usage Justification, with backup documentation	
DESCRIBE REASON/DEADLINES IF RUSH REQUESTED: N/A	
SERVICES REQUESTED: Include specific legal issues or questions to be addressed, provide all relevant background information, and attach all necessary documents. For quicker review, redline any proposed modifications and identify/tab all signature pages.	
Impact fees were initially approved to be used for land acquisition for a recreation facility/Regional Park on the west side of Nassau County. The County decided against making the land purchase, and instead is using land already in its possession. These previously designated regional park impact fees have been budgeted for park construction and other allowable uses pursuant to Article II, Section 2.04(D) of Comprehensive Impact Fee Ordinance No. 2016-02.	
Note the latest ordinance is 2020-14 and Parks was further amended by 2021-30 - It is better to reference the proper section(s) as found & codified in Municoode for Parks = Chapter 34, Article II, 31.21 - 31.30	

For County Attorney Office Use Only

DATE:	LOGGED BY:	ASSIGNED TO:
CA MATTER NAME:		
ATTORNEY RESPONSE/COMMENTS:		
<input type="checkbox"/> Insurance Approved	<input checked="" type="checkbox"/> Contract Approved	<input type="checkbox"/> See Attached
By: Date:	By: Date: 4/16/22	By: Date:
Comments [<input type="checkbox"/> See Attached Material]:		
No known legal issues - Charge form		

ORDINANCE

➤ ARTICLE I. - GENERAL

✓ ARTICLE II. - PARKS AND RECREATIONAL FACILITIES IMPACT FEES

Sec. 34-21. - Definitions applicable to
park and recreational facilities impact
fees.

Sec. 34-22. - Legislative findings
applicable to park and recreational
facilities impact fees.

Sec. 34-23. - Imposition of park and
recreational facilities impact fees.

Sec. 34-24. - Use of monies.

Secs. 34-25—34-30. - Reserved.

Sec. 34-24. - Use of monies.

- (a) The commission hereby establishes four (4) 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 "A." All park and recreational facilities impact fees collected within a park and recreation benefit district shall be expended either for the purpose of providing approved growth-necessitated capital improvements to the county park system within such benefit district or in another benefit district pursuant to section 34-24(e) of this article.
- (b) The commission hereby establishes four (4) "park impact fee trust funds" to correspond to the four (4) park and recreation benefit districts described in subsection (a) above and four (4) "recreational facilities impact fee trust funds" to correspond to the four (4) park and recreation benefit districts described in subsection (a) above. Such funds shall be maintained separate and apart from all other county accounts.
- (c) Upon receipt by the county, park and recreational facilities impact fees shall be deposited into the appropriate trust fund that corresponds with the fee component and park and recreation benefit district in which the residential construction is occurring.
- (d) Park and recreational facilities 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 trust funds, as established in subsection (a) above, shall be used solely for the purpose of providing growth-necessitated capital improvements to the county park system within each corresponding park and recreation benefit district and based on the approved uses of the funds as set forth below. However, to the extent that a growth-necessitated capital improvement to the county park system provides reasonable benefits beyond the park and recreation benefit district within which it is located, it may be funded with park and recreational facilities impact fee funds collected from another park and recreation benefit district. Prior to encumbering any park and recreational facilities impact fee funds in this manner, the county manager or designee shall make a written determination that (1) the county park system capital improvement will reasonably benefit development in the park and recreation benefit district from which the park and recreational facilities impact fees have been collected; (2) the planned county park system capital improvements are of a nature such that it will add capacity to the county park system beyond the park and recreation benefit district in which it is situated; and (3) the demand for the county park system capital improvement is reasonably attributable to development in the park and recreation benefit district from which the park and recreational facilities impact fees have been collected.
- (f) The monies deposited into the park impact fee trust accounts shall be used solely to provide additional park land and related 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 park construction thereto;
 - (5) Any permitting or application fees necessary for the horizontal park construction;

- (6) Design and construction of new parks;
 - (7) Design and construction of new drainage facilities required by the construction of parks;
 - (8) Relocating utilities required by the construction of parks;
 - (9) Landscaping;
 - (10) Construction management and inspection;
 - (11) Surveying, soils, and materials testing;
 - (12) 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;
 - (13) 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
 - (14) Costs related to the administration, collection, and implementation of the park impact fee.
- (g) The monies deposited into the recreational facilities impact fee trust accounts shall be used solely to provide capital improvements or additions to the county's recreational facilities within 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) Fees for professional services, including but not limited to architecture, engineering, surveying, landscaping, soils and material testing, legal, appraisals, and construction management;
 - (2) Design and construction plan preparation;
 - (3) Site development and on-site and off-site improvements incidental to the recreational facilities construction thereto;
 - (4) Any permitting or application fees necessary for the recreational facilities construction;
 - (5) Design and construction of new recreational facilities;
 - (6) Design and construction of new drainage facilities required by the construction of recreational facilities or improvements thereto;
 - (7) Relocating utilities required by the construction of recreational facilities;
 - (8) Landscaping;
 - (9) Construction management and inspection;
 - (10) Surveying, soils, and materials testing;
 - (12) 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;
 - (13) 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
 - (14) Costs related to the administration, collection, and implementation of the recreational facilities impact fee.
- (h) The monies deposited into the park and recreational facilities impact fee trust accounts 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 recreational facilities impact fees by the county during the previous year.

- (i) Any park and recreational facilities 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 trust account and used as provided herein.
- (j) The county may retain 1.5 percent of all park and recreational facilities 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 recreational facilities impact fees. The Nassau County Clerk of Court may retain an additional 0.5 percent of all park and recreational facilities 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 recreational facilities impact fees.
- (k) The park and recreational facilities 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:
 - (l) 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.
- (m) 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 recreational facilities impact fee was paid;
 - b. A copy of the dated receipt issued for payment of the park and recreational facilities 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.
- (n) 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 recreational facilities impact fee requested for refund, and if such park and recreational facilities 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.
- (1) Developer contribution credits pursuant to section 34-86 for the donation of park land or other contributions outlined in section 34-24(f) shall only apply to the park impact fee component of the combined park and recreational facilities impact fee. Developer contribution credits pursuant to section 34-86 for the construction and donation of recreational facilities or other contributions outlined in section 34-24(g) shall only apply to the recreational facility impact fee component of the combined park and recreational facilities impact fee. Such credits shall be separately calculated and applied in accordance with section 34-86.

(Ord. No. 2019-25, § 4, 10-14-19; Ord. No. 2019-33, § 2, 12-9-19; Ord. No. 2020-19, § 9(2.04), 7-16-20; Ord. No. 2021-030, § 5, 12-13-21)