

ORDINANCE NO. C-06-14

AN ORDINANCE AMENDING SECTION 47-25.2 ADEQUACY REQUIREMENTS, AMENDING SECTION 47-25, DEVELOPMENT REQUIREMENTS, SUBSECTION F., PARKS AND OPEN SPACE, AND CREATING SECTION 47-38, ADDITIONAL REQUIREMENTS, SUBSECTION A. PARK IMPACT FEES, OF THE UNIFIED LAND DEVELOPMENT REGULATIONS OF THE CITY OF FORT LAUDERDALE, FLORIDA TO REVISE THE CRITERIA USED BY THE CITY TO EVALUATE THE DEMAND CREATED BY A PROPOSED DEVELOPMENT ON PARKS AND OPENS SPACE AND THE REQUIREMENTS FOR MEETING THE DEMAND AND AMENDING THE PARK IMPACT FEE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That subsection F, Parks and open space, of Section 47-25.2, Adequacy requirements, of the Unified Land Development Regulations ("ULDR") of the City of Fort Lauderdale, Florida, is hereby amended to read as follows:

SECTION 47-25, DEVELOPMENT REVIEW CRITERIA

Sec. 47-25.2. Adequacy requirements.

F. Parks and open space.

1. ~~For all residential plats, a minimum of three (3) acres property per anticipated one thousand (1,000) residents, or cash equivalent value, or combination thereof as determined by the department shall be provided by the applicant to meet the needs for additional parks. In addition, contribution to subregional and regional parks in accordance with the Broward County Land Development Code is required, and an applicant shall provide documentation to the department that such contribution has been satisfied. The manner and amount of providing park and open space is as provided in Article 47-38.A, Park Impact Fees, of the ULDR.~~

2. ~~If there is adequate acreage available to service the proposed residential development, the city shall reserve the capacity necessary to serve the development. No building permit shall be issued until the park impact fee required by Section 47-38A. of the ULDR has been paid in full by the applicant.~~
3. ~~Open space requirements provided in the ULDR shall be in addition to and shall not replace the park and open space required by this subsection F.~~

SECTION 2. That a new ARTICLE XIV, Additional Requirements, Section 47-38 Fees., Section 47-38A. Park Impact Fees of Chapter 47, of the ULDR, is hereby created to read as follows:

ARTICLE XIV. ADDITIONAL DEVELOPMENT REQUIREMENTS

SECTION 47-38 FEES.

SECTION 47-38A. PARK IMPACT FEES.

Sec. 47-38A.1 Findings and purpose.

(a) The City Commission of the City of Fort Lauderdale finds and determines that growth and development activity within the city will create additional demand and need for parks, open space and recreational facilities within the city.

(b) The City Commission finds that growth and development activity should pay a proportionate share of the cost of such facilities needed to serve the growth and development activity.

(c) The City Commission finds that established case law authorizes cities to impose and collect impact fees to partially fund public facilities to accommodate new growth.

(d) The City Commission adopts this section to impose park impact fees for parks, open space and recreational facilities.

(e) The City Commission finds that the proposed amendment is consistent with and furthers the objectives and policies of the City of Fort Lauderdale Comprehensive Plan, Recreation and Open Space Element, as follows:

OBJECTIVE 1.2: The City shall ensure that Parks and Recreation Facilities meet the level of service standards established within the City of Fort Lauderdale's Recreation and Open Space Element.

POLICY 1.2.1: To maintain the levels of service standards identified within the Recreation and Open Space Element of the City of Fort Lauderdale's Comprehensive Plan, the City shall determine whether adequate Parks and Recreation Facilities will be available when needed to serve proposed development.

POLICY 1.2.2: Prior to site plan approval, the City of Fort Lauderdale shall ensure that Parks and Recreation Facilities necessary to meet the level of service standards established within the City of Fort Lauderdale's Comprehensive Plan will be available consistent with state concurrency requirements (Subsection 163.3180 (2)(b) Florida Statutes and Subsection 9J-5.0055(3)(b), Florida Administrative Code) Site plan approval that is granted consistent with Subsection 9-J5.0055 (3)(b) shall meet design standards of the City of Fort Lauderdale.

POLICY 1.2.3: The City of Fort Lauderdale shall continue to review and revise, where necessary, its land development codes and regulations to ensure that all new development in the City of Fort Lauderdale meets the level of service standards established within the City of Fort Lauderdale's Comprehensive Plan.

POLICY 1.2.4: In order to ensure that land development contributes a proportionate share of the cost of Parks and Recreation Facilities, the City of Fort Lauderdale shall continue to implement the improvement, dedication and impact fee requirements contained within the Code of Ordinances of the City of Fort Lauderdale's Unified Land Development Regulations.

(f) The provisions of this section shall be liberally construed in order to carry out the purposes of the Commission in establishing park impact fees.

Sec. 47-38A.2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Building Permit.* Includes a building permit, or any written authorization from the City which authorizes the commencement of development.

*Commencement Date.* The ninetieth (90<sup>th</sup>) day from the date this Section 47-38A is in effect, which date shall be September 28, 2006.

*Development.* As provided in Section 47-35 of the ULDR.

*Impact fee administrator.* The city manager of the City of Fort Lauderdale, or his or her designee.

*Park impact fee study.* The Fort Lauderdale Park Impact Fee Study prepared by Duncan and Associates in December 2005 or a subsequent similar study.

*Park system.* Land, facilities and improvements to City-owned or maintained land used for recreational purposes, and recreational facilities and improvements made or installed by the City on non-City property and available for public use.

*Park system improvements.* Capital improvements that result in a net expansion of the capacity of the park system to serve new development. Remodeling, replacement or maintenance of existing equipment or facilities does not constitute park system improvements. Examples of park system improvements include the acquisition of park land, the development of new parks, and the installation of new equipment, additional landscaping or new paved trails in existing parks.

Sec. 47-38A.3. Fee imposed, applicability.

(a) There is imposed, and shall be collected, from every person who applies for a building permit for each new dwelling unit and hotel/motel room proposed in the following amounts:

<u>Land Use Type</u>	<u>Fee</u>
<u>Residential Dwelling Unit (single or multi-family)</u>	
<u>Less than 500 sq. ft.</u>	<u>\$1,650</u>
<u>501 to 1,000 sq. ft.</u>	<u>\$1,875</u>
<u>1,001 to 1,500 sq. ft.</u>	<u>\$2,175</u>
<u>1,501 to 2,000 sq. ft.</u>	<u>\$2,375</u>
<u>2,001 to 2,500 sq. ft.</u>	<u>\$2,525</u>
<u>2,501 to 3,000 sq. ft.</u>	<u>\$2,625</u>
<u>3,001 to 3,500 sq. ft.</u>	<u>\$2,725</u>
<u>3,501 to 4,000 sq. ft.</u>	<u>\$2,825</u>
<u>More than 4,000 sq. ft.</u>	<u>\$2,900</u>
<u>Hotel/Motel Room</u>	<u>\$1,250</u>

(b) The full fee amount set forth in subsection (a) above will be assessed commencing on September 28, 2006, the ninetieth (90<sup>th</sup>) day after the effective date of this Section 47-38A.

(c) The provisions of this section apply to all applications for building permits made on and after the commencement date of the ordinance, as provided in subsection (b) codified in this section.

(d) Square feet, as used in this section, refers to enclosed, gross floor area excluding parking garages, screened enclosures and unfinished attics.

(e) Redevelopment or replacement of existing development shall be assessed for the net increase in impact for the new development as compared to the previous existing development on the site no longer than three (3) years prior to the current application for building permit.

(f) In computing the fee applicable to a given development, the fee shall be reduced by the amount of applicable credits, pursuant to Sec. 47-38.A.8, Credits.

(g) The city is entitled to retain the actual cost of administering this section to offset the costs but in no event more than three percent (3%) of the park impact fee collected.

(h) Park impact fees may be paid under protest in order to obtain a building permit. If a protest is filed, the provisions of Section 47-38A.10., Appeals, shall be applicable.

Sec. 47-38A.4. Exemptions.

The following developments are exempt from the requirements of this chapter:

(a) An addition to or renovation of an existing residential dwelling unit, provided no additional dwelling units are created.

(b) A development involving a change of use, structure, or both, that has no greater impact than the existing use.

(c) A development for which a complete building permit application was submitted prior to the commencement date of this ordinance, provided that the project is completed according to the terms of the building permit and the building permit does not expire.

(d) A development for which an applicant has signed an agreement prior to the commencement date of this ordinance to pay a fee that is equal to or greater than the fee imposed herein.

(e) A development that proposes affordable housing for very low, low or moderate income persons if approved by the city commission and upon identification on the record of the source of funds that will be used to pay for the fee that would otherwise be due.

Sec. 47-38A.5. Independent fee calculation.

(a) The park impact fee may be computed by the use of an independent fee calculation study at the election of the applicant.

(b) The preparation of the independent fee calculation study shall be the sole responsibility and cost of the applicant.

(c) Any person who requests to perform an independent fee calculation study shall pay an application fee for administrative costs associated with the review and decision on such study.

(d) The independent fee calculation study shall be based on the same service standards and unit costs for facilities used in the park impact fee study, and shall document the methodologies and assumptions used.

(e) The impact fee administrator will review the independent fee calculation study and determine whether it warrants an adjustment of the park impact fee for the project, based on the quality of the data and analysis presented and consistency with the methodology, service standards and unit costs used in the park impact fee study.

Sec. 47-38A.6. Park impact fee accounts.

(a) Park impact fee receipts shall be earmarked specifically and retained in a special interest bearing account established by the City solely for park impact fees. All interest shall be retained in the account and expended for the purpose or purposes for which said fees were imposed. Annually, the City shall prepare a report on the source and amount of all park impact fees collected, interest earned, and the park and recreational facilities that were financed in whole or in part by said fees.

(b) Park impact fees shall be expended for park system improvements as that term is defined in section 47-38A.2. Impact fees may be spent to retire debt for existing facilities, provided that those facilities have not been included in determining the existing level of service on which the park impact fees were calculated.

(c) Park impact fees shall be expended or encumbered by the City for a permissible use within six (6) years of receipt by the City. Fees shall be considered expended on a first-in, first-out basis.

Sec. 47-38A.7. Refunds.

(a) The current owner of property on which a park impact fee has been paid may receive a refund of such fees if the City fails to expend or encumber the fees

within six (6) years of receipt of the fees. The City shall notify potential claimants by first-class mail deposited with the United States postal service at the last known address of the claimants.

(b) An owner's request for a refund must be submitted to the City in writing within one (1) year of the date the right to claim the refund arises or the date that notice is given, whichever date is later. Any park impact fees that are not expended or encumbered by the City within these time limitations, and for which no application for a refund has been made within this one-year period, shall be retained and expended consistent with the provisions of this section. Refunds of park impact fees shall include interest earned on such fees.

(c) Should the City seek to terminate any or all park impact fee requirements, all unexpended, unencumbered funds or funds not planned to be expended for a particular development, including interest earned, shall be refunded pursuant to this section. Upon the finding that any or all fee requirements are to be terminated, the City shall place notice of such termination and availability of refunds in a newspaper of general circulation at least two times and shall notify all potential claimants by first-class mail to the last known address of claimants. All funds available for refund shall be retained for a period of one (1) year. At the end of one (1) year, any remaining funds shall be retained by the City, and must be expended by the City consistent with the provisions of this chapter. The notice requirements set forth above shall not apply if there are no unexpended or unencumbered balances within the account or accounts being terminated.

(d) An applicant may request and shall receive a refund, including interest earned on park impact fees, when (1) the applicant does not proceed to finalize the development; and (2) no impact on the City has resulted. "Impact" shall be deemed to include cases where the City has expended or encumbered park impact fees in good faith prior to the application for refund. In the event that the City has expended or encumbered the fees in good faith, no refund shall be forthcoming. However if, within a period of three (3) years, the same or subsequent owner of the property proceeds with the same or substantially similar development activity, the owner shall be eligible for a credit.

(e) Interest due upon the refund of park impact fees required by this chapter shall be calculated according to the average rate received by the City on invested

funds throughout the period during which the fees were retained.

Sec. 47-38A-8. Credits.

(a) Credits against park impact fees shall be provided for reimbursements from impact fees collected by the City and shall be provided for contributions toward the cost of system improvements for the same type of facility subject to the provisions herein. Approved credits shall generally become effective when a dedication of land, construction of improvements or monetary payments have been accepted by the City.

(b) Applicants may obtain credits for park system improvements completed or monetary payments made prior to the commencement date of this section. Application for such credits must be made, on forms provided by the City, within one (1) year after the commencement date of this section. In the event that the development for which the credits are claimed is partially completed, the amount of the credits shall be reduced by the amount of the impact fees that would have been charged for the completed portion of the development had this section been in effect. In the event that the impact-generating development project has been fully completed, no credits shall be issued. If some credits are warranted, the developer shall enter into an agreement with the City as specified above. In no event shall excess credits be provided for pre-ordinance contributions.

(c) Generally, land reserved for recreation purposes shall be of a character and location suitable for use as a playground, playfield or other recreation purposes, and shall be relatively level and dry. A recreation site shall generally have a total frontage on one or more streets of at least 100 feet, and no other dimension of the site shall be less than 200 feet or as approved by the Parks and Recreation Department. The Parks and Recreation Department may refer any subsection proposed to contain a dedicated park to the appropriate neighborhood association for its recommendation. All land to be reserved for dedication to the City for park purposes shall have prior approval of the Parks and Recreation Department.

(d) In order to receive credit for system improvements, the developer shall submit complete engineering drawings, specifications, and construction cost estimates or property appraisals to the impact fee administrator. The impact fee

administrator shall determine the amount of credit due based on the information submitted, or where such information is inaccurate or unreliable, then on alternative engineering or construction costs acceptable to the impact fee administrator. The impact fee administrator may independently determine the amount of credit to be approved for land dedication by securing other property appraisals.

(e) To qualify for an impact fee credit, the developer must enter into an agreement with the City. At a minimum, the developer agreement shall specify the amount of the credit, and how the fees within the development project for which the contribution was made will be reduced. If the amount of the credit exceeds the impact fees that would otherwise be due from the development, the agreement shall specify how the developer will be reimbursed for the amount of excess credit.

(f) Credits provided pursuant to this section shall be valid from the commencement date of such credits until ten (10) years after such date.

Sec. 47-38A.9. Miscellaneous provisions.

(a) The impact fee administrator shall maintain accurate records of the park impact fees paid, including the name of the person paying such fees, the project for which the fees were paid, the date of payment of each fee, the amounts received in payment for each fee, and any other matters that the City deems appropriate or necessary to the accurate accounting of such fees. Records shall be available for review by the public during normal business hours and with reasonable advance notice.

(b) Annually, the impact fee administrator shall present to the City Commission a proposed capital improvements program that shall assign monies from the park impact fee fund to specific projects and related expenses for eligible park system improvements.

(c) If an impact fee has been calculated and paid based on a mistake or misrepresentation, it shall be recalculated.

(1) Any amounts overpaid by an applicant shall be refunded by the impact fee administrator to the applicant within thirty (30) days after the

acceptance of the recalculated amount, with interest since the date of such overpayment.

- (2) Any amounts underpaid by the applicant shall be paid to the impact fee administrator within thirty (30) days after the acceptance of the recalculated amount, with interest since the date of such underpayment.
- (3) In the case of an underpayment to the impact fee administrator, the City shall not issue any additional permits or approvals for the project for which the impact fee was previously underpaid until such underpayment is corrected, and if amounts owed to the City are not paid within such thirty (30) day period, the City may also rescind any permits issued in reliance on the previous payment of such impact fee.

(d) The impact fees and the administrative procedures established by this section shall be reviewed at least once every three (3) years.

Sec. 47-38.A.10. Appeals

Any determination made by the impact fee administrator charged with the administration of any part of this section may be appealed to the City Commission within thirty (30) days from the date of the decision appealed, pursuant to the procedural provisions of section 47-26B.1.

SECTION 3. That if any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 4. That all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed.

SECTION 5. That this Ordinance shall be in full force and effect **ten** days from the date of final passage.

PASSED FIRST READING this the 6th day of June, 2006.  
PASSED SECOND READING this the 20th day of June, 2006.

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Mayor  
JIM NAUGLE

ATTEST:

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City Clerk  
JONDA K. JOSEPH

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