

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46

ALACHUA COUNTY
BOARD OF COUNTY COMMISSIONERS

ORDINANCE 23-

AN ORDINANCE AMENDING CHAPTER 368 OF THE ALACHUA COUNTY CODE RELATING TO THE PARK SYSTEM IMPACT FEE; AMENDING THE FEE SCHEDULE FOR ALL USES; PROVIDING FOR FEES TO BE PHASED IN; PROVIDING FOR SEVERABILITY; PROVIDING A REPEALING CLAUSE; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board County Commissioners of Alachua County Florida intends to update its Park System Impact Fee; and,

WHEREAS, Florida Statutes require impact fees to be based on the most recent available local data; and

WHEREAS, the Board of County Commissioners finds that adoption of a Park Master Plan constitutes extraordinary circumstances contemplated in Chapter 163.31801(6)(g); and,

WHEREAS, two public workshops were held on July 5, 2023 and July 6, 2023 where the circumstances of the special need were identified and discussed; and,

WHEREAS, the Board of County Commissioners has adopted this ordinance by a two-thirds majority at a public hearing held November 14, 2023;

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA:

Section 1. Legislative Finding of Fact. The Board of County Commissioners of Alachua County, Florida finds and declares that all the statements set forth in the preamble of this ordinance are true and correct.

Section 2. Alachua County Code. Chapter 368 of the Alachua County Code of Ordinances is amended as contained in Exhibit 'A'.

Section 3. Modifications. It is the intent of the Board of County Commissioners that the provisions of this ordinance may be modified as a result of considerations that may arise during public hearings. Such modifications shall be incorporated into the final version of the ordinance adopted by the Board and filed by the Clerk to the Board.

Section 4. Repealing Clause. All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 5. Inclusion in the Code, Scrivener's Error. It is the intention of the Board of County Commissioners of Alachua County, Florida, and it is hereby provided tha the provisions of this ordinance shall become and be made a part of the Code of Laws and Ordinances of Alachua County, Florida; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section," "article," or other appropriate designation. The correction of typographical errors which do not affect the intent of the ordinance may be authorized by the County Manager or designee without public hearing, by filing a corrected or recodified copy of the same with the Clerk of the Circuit Court.

Section 7. Severability. If any section, phrase, sentence or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 8. Effective Date. A certified copy of this ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board of County Commissioners, and this ordinance shall take effect upon filing with the Department of State.

DULY ADOPTED in regular session, this _____ day of _____, 2023.

BOARD OF COUNTY COMMISSIONERS OF
ALACHUA COUNTY, FLORIDA

ATTEST:

By: _____
Anna Prizzia, Chair

J. K. ABuddy@ Irby, Clerk

APPROVED AS TO FORM

(SEAL)

County Attorney

--- REMAINDER OF PAGE IS BLANK ---

Exhibit 'A'

CHAPTER 368. PARK SYSTEM IMPACT FEE

Sec. 368.01. Legislative findings.

The board of county commissioners of Alachua County finds, determines and declares that:

- (1) Alachua County must expand its park system in order to maintain current standards if new development is to be accommodated without decreasing current standards. This must be done in order to promote and protect the public health, safety and welfare;
- (2) The Florida Legislature, through the enactment of the "Florida Impact Fee Act," Section 163.31801, Florida Statutes, authorizes Alachua County to enact impact fees;
- (3) The imposition of impact fees is one of the preferred methods of ensuring that development bears a proportionate share of the cost of capital facilities necessary to accommodate such development. This must be done in order to promote and protect the public health, safety and welfare;
- (4) The imposition of impact fees is consistent with the Alachua County Comprehensive Plan;
- (5) Each of the types of land development described in section 368.07 hereof, will create demand for the acquisition or expansion of parks and the construction of park improvements;
- (6) The fees established by section 368.07 are derived from, are based upon, and do not exceed the costs of providing additional park and park improvements necessitated by the new land developments for which the fees are levied; and
- (7) The report entitled "~~A Report Presenting Development Impact Fees~~Alachua County Impact Fee Update", dated ~~July 11, 2004~~August 2023, sets forth a reasonable methodology and analysis for the determination of the impact of new development on the need for and costs of acquiring and/or making capital improvements to parks under the jurisdiction of Alachua County.
- (8) The Board of County Commissioners finds that adoption of a new Parks Master Plan constitutes and extraordinary circumstance contemplated by Chapter 163.31801(6)(g). Two public workshops were held on July 5, 2023 and July 6, 2023 where the circumstances of the special need were identified and discussed. The Board adopted this ordinance by a two-thirds majority.

Sec. 368.02. Short title, authority and applicability.

- (a) This chapter shall be known and may be cited as the "Alachua County Park Impact Fee Ordinance."
- (b) The board of county commissioners of Alachua County has the authority to adopt this ordinance pursuant to Article VIII of the Constitution of the State of Florida, and Section 163.31801, Florida Statutes.
- (c) This chapter shall apply in the unincorporated area of Alachua County.

Sec. 368.03. Intent and purpose.

- (a) This chapter is intended to assist in the implementation of the Alachua County Comprehensive Plan.
- (b) The purpose of this chapter is to require the payment of a fee so as to assure that new development bears a proportionate share of the cost of capital expenditures necessary to provide parks in Alachua County.

Sec. 368.04. Rules of construction.

- (a) The provisions of this chapter shall be liberally construed so as to effectively carry out its purpose in the interest of the public health, safety and welfare.

- (b) For the purposes of administration and enforcement of this ordinance, unless otherwise stated in this chapter, the following rules of construction shall apply to the text of this chapter:
- (1) In case of any difference of meaning or implication between the text of this ordinance and any caption, illustration, summary table, or illustrative table, the text shall control.
 - (2) The word "shall" is always mandatory and not discretionary; the word "may" is permissive.
 - (3) Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
 - (4) The phrase "used for" includes "arranged for", "designed for", "maintained for", or "occupied for".
 - (5) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
 - (6) Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and", "or" or "either...or", the conjunction shall be interpreted as follows:
 - a. "And" indicates that all the connected terms, conditions, provisions or events shall apply.
 - b. "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
 - c. "Either...or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
 - (7) The word "includes" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.
 - (8) The word "days" shall mean business days, and shall not include designated County holidays, weekends or other days where County offices are officially closed for business

Sec. 368.05. Definitions.

Building permit for a residential building is the approval issued by Alachua County that authorizes the construction, placement interior completion or interior renovation of a building, dwelling, mobile home, recreational vehicle or other structure on a site, where the purposes of the building or structure is for the occupancy by humans. This would include temporary as well as permanent occupancy.

A *capital improvement* includes parks planning, land acquisition, site improvements, buildings, and equipment, but excludes maintenance and operation.

Certificate of occupancy is the certificate issued by the Alachua County Building Department to a building permit applicant, indicating that the building is in proper condition to be occupied.

Development order means a regulatory approval by Alachua County, and has the meaning in Chapter 163 Florida Statutes.

A *feepayer* is a person applying for the issuance of a building permit.

Floor area—Residential is that area of the building or structure provided with heating or air conditioning or designed to be provided with heating or air conditioning and shall be calculated from the outside wall of heated or cooled area. In multi-family buildings, this area shall include all conditioned hallways and common areas, mechanical or electrical spaces, and leasing space.

The *impact fee administrator* means a county official other than the county manager, designated by the county manager to carry out the administration of this chapter.

Private recreational facility is any recreational facility which is not owned by or dedicated to any governmental entity.

Residential room means any room used for sleeping, living, dining, gathering, exercising, studying, recreation or entertaining.

Sec. 368.06. Imposition of park impact fee.

- (a) Any person who, after March 28, 2005, seeks to develop land within the unincorporated area of Alachua County, Florida, by applying for a building permit for a residential building or the extension of a building permit for a residential building which will generate additional impacts is hereby required to pay a park impact fee in the manner and amount set forth in this chapter. The park impact fee shall be determined at the time of building permit application.
- (b) No certificate of occupancy for any activity requiring payment of an impact fee pursuant to section 368.07 shall be issued by Alachua County unless and until the park impact fee hereby required has been paid.

Sec. 368.07. Computation of the amount of park impact fee.

- (a) At the option of the feepayer, the amount of the park impact fee may be determined by the following fee schedule.

FEE SCHEDULE

Parks Impact Fee	--				
Development Type and Unit	<u>Fee Prior to March 1, 2024</u>	<u>On or after March 1, 2024 and prior to March 1, 2025</u>	<u>On or after March 1, 2025 and prior to March 1, 2026</u>	<u>On or after March 1, 2026 and prior to March 1, 2027</u>	<u>On or after March 1, 2027</u>
All residential buildings	\$0.126 per ft. ² of floor area*	\$0.19897 per ft. ² of floor area	\$0.27194 per ft. ² of floor area	\$0.34491 per ft. ² of floor area	\$0.41788 per ft. ² of floor area
<u>Hotels</u>	<u>N/A</u>	<u>\$123.39 per room</u>	<u>\$246.78 per room</u>	<u>\$370.17 per room</u>	<u>\$493.56 per room</u>

*For purposes of calculating residential impact fees, the floor area per residential unit will be capped at 2,600 ft.² for permits applied for Prior to March 1, 2024, and 4,500 ft² for permits applied for on or after March 1, 2024..

- (b) If a feepayer opts not to have the impact fee determined according to paragraph (a) of this section, then the feepayer shall prepare and submit to the impact fee administrator an independent fee calculation study for the land development activity for which a building permit is sought. The documentation submitted shall show the basis upon which the independent fee calculation was made. The impact fee administrator shall consider the documentation submitted by the feepayer but is not required to accept such documentation as he/she shall reasonably deem to be inaccurate or not reliable and may, in the alternative, require the feepayer to submit additional or different documentation for consideration. If an acceptable independent fee calculation study is not presented, the feepayer shall pay park impact fees based upon the schedule shown in paragraph (a) of this section. If an acceptable independent fee calculation study is presented, the impact fee administrator may adjust the fee to that appropriate to the particular development. ~~The adjustment may include a credit against the fee otherwise payable up to 50 percent for private recreational facilities constructed or deed restricted or otherwise set aside for recreational purposes by the feepayer which serve the same purposes and functions as set forth for public parks in the Alachua County Comprehensive Plan.~~ Determinations made by the impact fee administrator pursuant to this paragraph may be appealed to the County Manager by filing a written request with the county manager within ten (10) days of the impact fee administrator's determination.

Sec. 368.08. Payment of fee.

- (a) ~~Except as identified in (b), below,~~ The feepayer shall pay the park impact fee required by this ordinance to the impact fee administrator or his/her designee prior to the issuance of a certificate of occupancy.
- (b) ~~For a mobile home or recreational vehicle building permit where no certificate of occupancy is required, such as an expansion of an existing home or a mobile home,~~ the feepayer shall pay the park impact fee required by this ordinance to Alachua County prior to the issuance of a building permit.
- (c) All funds collected shall be promptly transferred for deposit in the appropriate park impact fee trust fund to be held in a separate account as determined in section 368.09 and used solely for the purposes specified in this chapter.

Sec. 368.09. Park impact fee special revenue/capital projects trust funds established.

- (a) There is hereby established a separate park special revenue/capital projects impact fee trust fund.
- (b) Funds withdrawn from these accounts must be used in accordance with the provisions of section 368.10.

Sec. 368.10. Use of funds.

- (a) Funds collected from park impact fees shall be used solely for the purpose of acquiring and/or making capital improvements to parks under the jurisdiction of Alachua County and shall not be used for maintenance or operations.
- (b) In the event that bonds or similar debt instruments are issued for advanced provision of capital facilities for which park impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are of the type described in paragraph (a).
- (c) At least once each fiscal period the impact fee administrator shall present to the board of county commissioners an annual report of impact fees collected, credit provided, the total account balance for the park impact fee trust fund, and projects under construction or completed.
- (d) The annual capital improvements program shall clearly identify the amount of park impact fees used for a project. Monies, including any accrued interest, not assigned to a project in any fiscal period shall be retained in the park impact fee trust fund until the next fiscal period except as provided by the refund provisions of this chapter.
- (e) Funds may be used to make refunds required under any development order heretobefore or hereafter issued or entered into by Alachua County as such refunds pertaining to the subject matter of this chapter.
- (f) Funds may be used to provide refunds as described in section 368.11.
- (g) Funds shall be expended in the order in which they are collected.
- (h) Projects funded with park impact fees shall be consistent with the parks master plan and capital improvements element of the comprehensive plan. If a project is not in the parks master plan and the capital improvements element, then it shall be added during the next update of the comprehensive plan.
- ~~(i) Projects funded with park impact fees shall be consistent with the Parks Master Plan and the Alachua County Comprehensive Plan. If a project is not in the Parks Master Plan or the Alachua County Comprehensive Plan, then it shall be added during the next update of the plan.~~
- (j) Funds collected, not to exceed the cost set forth in section 368.14, shall be used to fund the administrative cost to implement and operate the impact fee program including the salary and benefits of the impact fee administrator.

Sec. 368.11. Refund of fees paid.

Any funds not expended or encumbered by the end of the calendar quarter immediately following six (6) years from the date the park impact fee was paid shall, upon application of the then current landowner, be returned to such landowner with interest at the rate of three percent (3%) per annum, provided that the landowner submits an application for a refund to the county clerk of Alachua County within 180 days of the expiration of the six-year period. If the landowner fails to submit an application within 180-day period, the paid fee shall remain in the fire protection impact fee trust fund, and be eligible for those uses identified in this chapter.

Sec. 368.12. Exemptions and credits.

(a) The following shall be exempted from payment of the impact fee:

- (1) Alterations or expansion of an existing residential building where no additional residential rooms are created. The addition or expansion of a bathroom, kitchen, laundry or storage room, where no additional residential rooms are created shall be exempt.
- (2) The construction of accessory buildings or structures that do not contain residential rooms.
- (3) The replacement of a destroyed or partially destroyed building or structure with a new building or structure of the same size and use.
- (4) In the case of the replacement or expansion of a residential use, the impact fee shall be based on the net increase in residential floor area, except as otherwise exempt in section 368.12.
- (5) The construction of any non-residential building or structure or the installation of a non-residential mobile home.

(b) Any claim of exemption must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.

(b) Credits:

- (1) All park projects where park impact fee credit is provided shall be consistent with the parks and recreation and capital improvement element of the comprehensive plan. If a park project is not in the parks and recreation and capital improvement element, then it shall be added during the next update of the comprehensive plan.
- (2) Park land and/or park capital improvements may be offered by the feepayer as total or partial payment of the required impact fee. The offer must specifically request or provide for a park impact fee credit. If the impact fee administrator accepts such an offer, the credit shall be determined and provided in the following manner:
 - a. Credit for the dedication of land shall be valued at:
 - (i) 120 percent of the most recent assessed value by the property appraiser; or
 - (ii) By such other appropriate method as the board of county commissioners may have accepted prior to the effective date of this chapter for particular park improvements; or
 - (iii) By fair market value established by private appraisers acceptable to the county. Credit for the dedication of park land shall be provided when the property has been conveyed at no charge to, and accepted by, the County in a manner satisfactory to the board of county commissioners.
 - b. Applicants for credit for construction of park improvements shall submit acceptable engineering drawings and specifications, and construction cost estimates to the impact fee administrator. The impact fee administrator shall determine credit for construction based upon either these cost estimates or upon alternative engineering criteria and construction cost estimates if the impact fee administrator determines that such estimates submitted by the applicant are either

unreliable or inaccurate. The impact fee administrator shall provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter or certificate indicating his/her agreement to the terms of the letter or certificate and return such signed document to the impact fee administrator before credit will be given. The failure of the applicant to sign, date, and return such document within 60 days shall nullify the credit.

- c. Except as provided in subparagraph d., credit against impact fees otherwise due will not be provided until:
 - (i) The construction is completed and accepted by a city, the county or the state, whichever is applicable;
 - (ii) A suitable maintenance and warranty bond is received and approved by the county clerk of Alachua County, when applicable.
 - d. Credit may be provided before completion of specified park improvements if adequate assurances are given by the applicant that the standards set out in subparagraph c. will be met and if the feepayer posts security as provided below for the costs of such construction. Security in the form of a performance bond, irrevocable letter of credit or escrow agreement shall be posted with and approved by the county clerk of Alachua County in an amount determined by the impact fee administrator. If the park construction project will not be constructed within one (1) year of the acceptance of the offer by the impact fee administrator, the amount of the security shall be increased by ten percent (10%) compounded, for each year of the life of the security. The security shall be reviewed and approved by the board of county commissioners prior to acceptance of the security. If the park construction project is not to be completed within five years of the date of the feepayer's offer, the board of county commissioners must approve the park construction project and its scheduled completion date prior to the acceptance of the offer by the impact fee administrator.
- (3) Any claim for credit must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.
 - (4) Park impact fee credits are ~~not assignable and transferable~~ consistent with Section 163.31801(10) of the Florida Statutes.
 - (5) Determinations made by the impact fee administrator pursuant to the credit provisions of this section may be appealed to the county manager by filing a written request with the county manager within ten (10) days of the impact fee administrator's determination.
 - (6) Once a credit is established, if the park system impact fee is increased, the value of the credit shall be increased by the same proportion as the fee such that the benefit to intensity or density is not diminished.

Sec. 368.13. Review.

The fee schedule contained in section 368.07(a) shall be reviewed by the board of county commissioners at least once each fiscal biennium.

Sec. 368.14. ~~Cost to implement~~Administration Costs.

~~The cost to implement and~~ administer the park impact fee ordinance shall be based upon the actual cost to ~~implement and~~ administer the ordinance in accordance with Section 163.31801(3)(c), Florida Statutes.

Sec. 368.15. Requirement of pPublic notice.

Public notice shall be provided no less than 90 days before the effective date of an ordinance imposing a new or amended impact fee in accordance with Section 163.31801(3)(d), Florida Statutes.

Sec. 368.16. Audit requires affidavit.

Audits of financial statements of local governmental which are performed by a certified public accountant pursuant to Section 218.39, Florida Statutes, and submitted to the auditor general must include an affidavit signed by the chief financial officer of the local governmental entity that the local governmental entity has complied with Section 163.31801, Florida Statutes.

Sec. 368.17. Penalty provision.

Alachua County shall have the power to sue for relief in civil court to enforce the provisions of this chapter. Knowingly furnishing false information to the impact fee administrator, his/her designee, the building official or any municipal official who is charged with the administration of this chapter on any matter relating to the administration of the chapter shall constitute a violation of this chapter and shall be a misdemeanor punishable according to law.