

ORDINANCE 23-27

AN ORDINANCE AMENDING AND RESTATING THE CITY OF PORT ST. LUCIE CODE OF ORDINANCES CHAPTER 159, ARTICLE III, ENTITLED “PARKS AND RECREATION IMPACT FEE SCHEDULE”; PROVIDING FOR THE ADOPTION OF THE CITY OF PORT ST. LUCIE IMPACT FEE STUDY; PROVIDING FINDINGS; RESTATING TITLE, AUTHORITY AND APPLICABILITY; PROVIDING AMENDED AND RESTATED IMPOSITION OF PARKS AND RECREATION IMPACT FEES, FEE SCHEDULES, TIME OF PAYMENT, REVISION; PROVIDING AMENDED AND RESTATED PRESUMPTIONS, ADMINISTRATIVE FEES, ACCOUNTING AND AUDITS, LIMITATION, AGREEMENTS, AND SECURITY FOR REVIEW; PROVIDING AMENDED AND RESTATED CREDITS; PROVIDING AMENDED AND RESTATED EXEMPTIONS; PROVIDING AMENDED AND RESTATED RETURN OF FUNDS; PROVIDING FOR APPEALS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the authority to collect impact fees to offset the demands future development creates for new infrastructure is well established under Florida and federal caselaw and, in 2006, the Florida Legislature passed the “Florida Impact Fee Act”, which recognized impact fees as “an outgrowth of the home rule power of a local government to provide certain services within its jurisdiction.” § 163.31801(2), Florida Statutes; and

WHEREAS, the City Council of Port St. Lucie, Florida (hereinafter “Council”), has determined that the City of Port St. Lucie (hereinafter “City”) has and will continue to experience development and redevelopment which generates a need for additional public facility capacity and capital equipment; and

WHEREAS, as vacant lands within the City develop, or as existing uses expand, the demand imposed upon the City for additional parks and recreation facilities and infrastructure increases proportionately; and

WHEREAS, the City is updating its impact fees related to parks and recreation to fund capital parks and recreation facilities and supportive infrastructure needed to meet the demand created by future development; and

WHEREAS, impact fees are one mechanism the City uses to help shift the cost of providing such public facility capacity, capital facilities and infrastructure to such development, and the Council hereby finds and declares that the existing parks and recreation impact fees

established pursuant to Ordinance 13-25, as amended by Ordinance 16-33, should be updated to reflect current data, costs and development impacts on the need for parks and recreation facilities and infrastructure; and

WHEREAS, the Council has considered and desires to adopt the information and recommendations presented in the “Impact Fee Study – Prepared for: Port St. Lucie, Florida” by TischlerBise, dated April 12, 2023 (the “2023 Impact Fee Study”); and

WHEREAS, the Florida Impact Fee Act (the “Act”) places limitations on how much local governments may increase an impact fee and if an impact fee is increased in excess of fifty (50) percent of the current impact fee rate, it must be demonstrated by the extraordinary circumstances necessitating the need to exceed the phase-in limitation of the Act; and

WHEREAS, the City is experiencing extraordinary growth and new development; and

WHEREAS, the City is currently operating at a deficient level of service related to parks and recreation and without adopting the proposed parks and recreation impact fees, the City will be perpetually underserving its residents; and

WHEREAS, the capital expenditures required for parks and recreation facilities and infrastructure generated by the extraordinary growth and new development occurring within the City, as set forth in the 2023 Impact Fee Study, are significant and demonstrates the extraordinary circumstances that necessitate the need to exceed the phase-in limitations of the Act; and

WHEREAS, imposition of parks and recreation impact fees, requiring future development and growth within the City to contribute its fair share of the cost of extraordinary growth-necessitated parks and recreation capital improvements is necessary and reasonably related to the public health, safety, and welfare of the people of the City, provided that the parks and recreation impact fee does not exceed the amount necessary to offset the demand generated by new development and redevelopment; and

WHEREAS, the 2023 Impact Fee Study demonstrates a clear need for improvements to accommodate future extraordinary growth and a clear benefit provided by those improvements, as required by the dual rational nexus test; and

WHEREAS, the City Council has noticed, advertised, scheduled and held two (2) public workshops and a public hearing in compliance with Florida Statutes with respect to enactment of this proposed Ordinance; and

WHEREAS, the Council has determined that it is advisable and in the public interest to adopt and implement the proposed Ordinance.

NOW, THEREFORE, THE CITY OF PORT ST. LUCIE HEREBY ORDAINS:

Section 1. **Ratification of Recitals.** That the foregoing recitals are hereby ratified and confirmed as true and correct and are hereby incorporated herein by this reference.

Section 2. **Amendment and Restatement.** Article III of Chapter 159 of the City of Port St. Lucie Code of Ordinances is hereby presented in its entirety and restated and amended as specifically set forth as follows, with deleted text indicated by ~~striketrough~~ and inserted text indicated by underline:

Sec. 159.201. – Short Title, Authority, and Applicability.

- (A) This article shall be known and may be cited as the “Port St. Lucie Parks and Recreation Impact Fee Ordinance”.
- (B) The City of Port St. Lucie has the authority to adopt this article pursuant to its home rule powers under its City Charter granted by Article VIII of the Constitution of the State of Florida and Chapter 166 Florida Statutes, and pursuant to other Florida laws, including Sections 163.3201, ~~and~~ 163.3202, and 163.31801, Florida Statutes.
- (C) The City of Port St. Lucie has the power and responsibility to provide parks and recreation facilities in the City. Development within the City impacts the parks and recreation facility capital needs of the City, including the need for infrastructure to serve those parks and recreation facilities.
- (D) Planning for capital facilities to serve new development that generates additional demand for parks and recreation facilities and the subsequent implementation of these plans; is a responsibility of the City. Moreover, such planning is deemed to be in the best interests of the health, safety, and welfare of the citizens of the City.

Sec. 159.202. - Purpose and intent.

- (A) This article is intended to implement and be consistent with the goals, objectives and policies of the Comprehensive Plan.
- (B) It is the purpose of this article ~~chapter~~ to ensure the provision of an adequate level of service in parks and recreation facilities throughout the City, so that development may occur in a manner consistent with the Comprehensive Plan and with Florida law which requires the provision of public facilities concurrent with the impacts of development.

- (C) It is also the purpose of this article chapter to regulate the use and development of land so as to assure that new development bears a proportionate share of the cost of capital improvements that will be necessary to provide parks and recreation facilities and their related infrastructure to adequately serve the future needs of the City, at the same level of service provided to existing development, and to implement the Comprehensive Plan.
- (D) The Florida Legislature, through the enactment of the Community Planning Act ~~Local Government Comprehensive Planning and Land Development Regulation Act~~, Sections 163.3201 and 163.3202, Florida Statutes, and the Environmental Land and Water Management Act, Section 380.06(16)(4), (5), (8) and (12), Florida Statutes, and the entirety of Chapters 163 and 380, respectively, encourages local governments to enact impact fee programs as a part of their land development regulations to implement their Comprehensive Plan.
- (E) The Council hereby finds and declares that the impact fees imposed pursuant to this article chapter comply with the requirements of F.S. § 163.31801. Specifically, the requirements of F.S. § 163.31801, are fulfilled as follows:
- a. the impact fees imposed herein are calculated based on the most recent and localized data,
 - b. the established separate accounts and accounting procedures provide for appropriate accounting and reporting of impact fee collections and expenditures,
 - c. the administrative charges that may be implemented will reflect actual costs to the City for the creation and maintenance of the impact fee system,
 - d. impact fee collection is not earlier than building permit issuance.
 - e. notice was provided at least ninety (90) days prior to the effective date of any increased impact fees in accordance with F.S. § 163.31801,
 - f. the Technical Report, which was completed within twelve (12) months before the adoption of the impact fees, establishes that extraordinary circumstances exist, based on the City's extraordinary growth, that necessitates parks and recreation facilities and related infrastructure to accommodate that growth, such that an increase in the impact fees is required.
 - g. the ordinance adopting the parks and recreation impact fees was adopted by 2/3 vote of the Council,
 - h. the impact fees are proportional and reasonably connected to, or has a rational nexus with, the need for additional parks and recreation capital facilities and the increased impact generated by the new residential construction,
 - i. the impact fees are calculated to produce revenue adequate to provide the same level of service to new development as is provided to existing development, and
 - j. audits of the City performed pursuant to F.S. § 218.39, will include an affidavit from the chief financial officer of the City stating that the City has complied with F.S. § 163.31801.
- (F) New impact fees may not apply to current or pending permit applications submitted before the effective date of a new impact fee.

Sec. 159.203. - Definitions.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

APPLICANT. A person commencing a land development activity or a change of use or requesting approval of a land development activity or a change of use covered by this article. ~~Applicant includes a person requesting approval of in lieu impact fee payments as provided in this article independently of an application for development approval or change of use.~~

BUILDING PERMIT. Permits issued by the City, authorizing the construction or installation of buildings, structures, and other improvements including mobile homes and recreational vehicles.

CAPITAL COST. An expenditure which, under generally accepted accounting principles for local governments, would be considered a one time capital expense.

CAPITAL IMPROVEMENT. Includes, but is not limited to, construction costs, planning, engineering, design, surveys, inspection, testing, land acquisition, and other costs associated with the acquisition and construction of parks and recreation facilities that add or improve parks and recreation facility capacity. May include payment of existing debt service as identified in the Technical Report.

CITY MANAGER. The City Manager of the City of Port St. Lucie, as defined in its City Charter, or a person or persons designated by the City Manager to carry out a function described in this article.

COMPREHENSIVE PLAN. The Comprehensive Plan of the City of Port St. Lucie, Florida, adopted pursuant to F.S. ch. 163.3161 et. seq.

COUNCIL. The City Council of the City of Port St. Lucie, Florida.

DWELLING UNIT. Single-family and multi-family residential units, attached and detached dwellings, houses of conventional or manufactured construction, mobile homes, recreational vehicles and all other structures used for permanent residence, regardless of whether occupied by a tenant or owner. The term housing unit, as used in the Technical Report and in fee tables, is equivalent to a dwelling unit. ~~Pursuant to the technical report, updated impact fees shall be imposed per housing unit on single unit residential structures and per housing unit on structures with two (2) or more units per structure.~~

GROSS FLOOR AREA. Total area (in square feet) of all floors of a structure that are within the principal outside faces of exterior walls including for example halls, stairways, corridors, lobbies, and elevator shafts but excluding architectural setbacks or projections. It also includes areas where business is conducted outside the walls of the structure. If a site contains multiple buildings, the gross floor area shall be computed separately for each building. The definition of

gross floor area (GFA) in the ITE trip generation manual shall be used to resolve any questions regarding calculation of gross floor area.

LAND DEVELOPMENT ACTIVITY OR PROJECT. A land development activity including any change in land use, development type, or any construction of buildings or structures, or any change of use of any building or structure.

PARK AND RECREATION FACILITY. Parks and facilities designed for indoor and outdoor recreation and leisure activities including community and large neighborhood parks, passive parks, and recreation facilities. Activities may include, but are not limited to: community centers; boating, fishing, or camping; bicycle, hiking, or horse trail systems; nature or husbandry centers; or sport and athletic facilities. This term does not include small neighborhood parks intended to be used only by residents that reside in the immediate vicinity of the park.

PARK PROGRAM. That portion of the "Five Year Capital Improvement Program" identifying parks and recreation improvements with funding programmed from parks and recreation impact fees, as that program may be amended from time to time.

PERSON. Any individual, company, corporation, association, or other legal entity.

TECHNICAL REPORT. Technical Report shall mean and refer to the ~~"Impact Fee Update—City of Port St. Lucie, Florida" by TischlerBise, dated April 12, 2013~~ "Impact Fee Study – Prepared for: Port St. Lucie, Florida" by TischlerBise, dated April 12, 2023.

TRIP GENERATION MANUAL. The report entitled "Trip Generation" of the Institute of Transportation Engineers (9 11th edition). Official updates to the 9 11th edition may be accepted and used by the City as appropriate.

Sec. 159.204. – Findings and Declarations.

- (A) The Council hereby finds that new development in the City requires additional governmental services and facilities, specifically including parks and recreation facilities.
- (B) It is the policy of the City that an adequate level of service in parks and recreation facilities will be provided throughout the City concurrent with the impacts of development, so that development will occur in a manner consistent with the Comprehensive Plan.
- (C) It is the policy of the Council that new development should pay a pro rata share of capital costs related to the additional parks and recreation facilities and supportive infrastructure ~~governmental facilities~~ required to accommodate new development.

- (D) The Council, after consideration of the Technical Report, "Impact Fee Update—City of Port St. Lucie, Florida" by ~~TischlerBise, Fiscal, Economic & Planning Consultants~~ dated ~~April 12, 2013, the City of Port St. Lucie Impact Fee Study 2005~~ such report incorporated herein by reference, and the Park Program and the experience of the City and other similarly situated communities, hereby finds that impact fees provide a reasonable method of regulating development in the City so that new development pays a pro rata share of capital costs of parks and recreation facilities and supportive infrastructure governmental facilities necessary to accommodate new development.
- (E) Providing an adequate level of service within the City is essential to and in the best interests of the public health, safety, and welfare of the City of Port St. Lucie.
- (F) Based on the Technical Report "Impact Fee Update—City of Port St. Lucie, Florida" by ~~TischlerBise, Fiscal, Economic & Planning Consultants~~ dated ~~April 12, 2013, the City of Port St. Lucie Impact Fee Study 2005~~ and the Park Program, the Council hereby finds that a rational nexus, relationship, and connection exists between the capital costs of parks and recreation facilities improvements made necessary by development and the impact fees to be imposed on new development and collected, pursuant to this article, and between the expenditure of these funds on capital parks and recreation improvements induced by new growth and the benefit to the payers of fees.
- (G) New development creates an impact on the capital cost of providing parks and recreation facilities. The Park Program allocates the capital cost of providing parks and recreation facilities among various types of residential development types ~~land uses~~ and between new development and existing development according to an analysis of parks and recreation facilities needs as described in the Technical Report, "Impact Fee Update—City of Port St. Lucie, Florida" by ~~TischlerBise, Fiscal, Economic & Planning Consultants~~ dated ~~April 12, 2013 and the City of Port St. Lucie Impact Fee Study 2005~~.
- (H) The provisions of this article relate to adequate parks and recreation facilities in Port St. Lucie, the parks and recreation facilities needed for new development in Port St. Lucie, and the impact fee for those capital costs are based on and supported by the Technical Report City of Port St. Lucie Impact Fee Study 2005 and the Park Program.
- (I) Under the provisions of this article, development shall be required to pay a reasonable pro rata share of the capital costs related to the parks and recreation facilities made necessary by such new development. New development is not responsible for the parks and recreation ~~public~~ facility needs for existing development and impact fees will not be used to cure existing deficiencies resulting from existing development.
- (J) It is the policy of the City to provide parks and recreation facilities on a City-wide basis. The City has an affirmative duty to ensure that capital improvements paid for with impact fees will be those designated in the Park Program, as may be amended from time to time, determined to be of benefit to the payers of those fees. Therefore, impact fees imposed pursuant to this article will be used to pay for those

capital costs related to the parks and recreation facilities that will be required for and benefit new development in the City at the established level of service ~~Port St. Lucie~~. The City assumes responsibility for, and will pay from revenues other than impact fees, the costs of the parks and recreation facility needs to provide the established level of service to ~~of~~ existing development.

Sec. 159.205. - Imposition of Parks and Recreation Impact Fees.

- (A) Effective June 30, 2023, ~~October 1, 2005~~ any person who seeks to make improvements to land which can generate additional demand on parks and recreation facilities and which requires the issuance of a building permit or certificate of occupancy or other development permit, or who seeks to change the use of land to a use which can generate additional need for parks and recreation facilities shall be required to pay a parks and recreation ~~facility~~ impact fee in the manner and amount set forth in this article.
- (B) No building permit, certificate of occupancy, or other permit shall be issued or change of use allowed unless and until the parks and recreation ~~facility~~ impact fee hereby required has been paid.
- (C) The applicant shall pay the applicable impact fee to the City prior to the issuance of a building permit, a certificate of occupancy, or other permit, or to a change of use.
- (D) If parks and recreation ~~facility~~ impact fees are owed, no development permits of any type or certificates of occupancy may be issued for the building or structure in question and no construction or change of use allowed while the fee remains unpaid. The City Manager may authorize the initiation of any action as permitted by law or equity to collect the unpaid fees.
- (E) A violation of this article is punishable as an ordinance violation as provided in the City Charter and City Code. ~~In addition to or in lieu of any criminal prosecution,~~ The City has the power to sue for relief in civil court to enforce the provisions of this article. Knowingly furnishing false information to the City Manager or any municipal official who is charged with the administration of this article on any matter relating to the administration of this article constitutes a violation hereof.
- (~~F~~) ~~The City and St. Lucie County were parties to a park impact fee agreement that provided for the City to collect park impact fees within the City pursuant to a County ordinance. The funds collected by the City were shared with the County in accordance with a formula set out in the park impact fee agreement. The park impact fee agreement expired on September 30, 2005. Article VIII of the Florida Constitution provides that a non-charter county ordinance shall not be effective within a municipality that has adopted a municipal ordinance in conflict with the county ordinance. The ordinance adopting this article empowers the City to collect park and recreation facility impact fees and is in conflict with the County ordinance and therefore preempts the County ordinance. The~~

~~City continued to implement the park impact fee agreement between the City and St. Lucie County for so long as it remained in effect until the expiration of the park impact fee agreement on September 30, 2005.~~

- (G) In the case of ~~structures~~, mobile homes, and recreational vehicles, that are moved from one location to another, a parks and recreation ~~facility~~ impact fee will be collected for the new location if the ~~structure~~, mobile home or recreational vehicle constitutes one of the land development types ~~uses~~ listed in ~~s~~Section 159.2088, regardless of whether parks and recreation impact fees had been paid at the old location, unless the use at the new location is a replacement of an equivalent use. If the ~~structure~~, mobile home or recreational vehicles so moved is replaced by an equivalent use, no parks and recreation impact fee is owed for the replacement use. In every case, the burden of proving past payment of parks and recreation ~~facility~~ impact fee equivalency of use rests with the applicant.

Sec. 159.206. - Exemptions.

The following shall be exempt from payment of the parks and recreation impact fee:

- (1) Alterations or expansion of an existing building or structure or a change of use where no additional dwelling units will be produced, where the use will not be changed, and where no additional need for parks and recreation facilities will be generated over and above those generated by the existing building, structure, or use.
- (2) The construction of accessory buildings or structures or change of use which will not generate additional need for parks and recreation facilities over and above those generated by the principal building, structure or use of the land.
- (3) The replacement of a demolished or partially demolished building or structure with a new building or structure which will not generate additional need for parks and recreation facilities over and above those generated by the original building or structure, provided that there is no change of use of the land and that the new building or structure is permitted.
- (4) Any claim of exemption must be made no later than the time of application for a building permit or certificate of occupancy.

Sec. 159.207. - Accounting and Use of Funds.

- (A) All funds collected from parks and recreation impact fees shall be used solely for the purpose of capital improvements to parks and recreation facility capital improvements identified in the Park Program, as may be amended. All parks and recreation impact fee funds collected by the City shall be placed in an interest bearing separate accounting fund until such time as the expenditures authorized by this article will take place. Interest proceeds from these funds will accrue to the

separate accounting fund. The parks and recreation impact fee amounts may include an additional charge not to exceed three (3) percent to offset the costs of administering, updating, maintaining and enforcement of this article. Any such administrative charge imposed by the City is in addition to the impact fees due, is nonrefundable, is payable at the time of payment of impact fees, and may include, but is not limited to costs associated with consultants, administrative staff, equipment, software, and other associated expenses.

- (B) The City shall ensure that payers of the parks and recreation impact fee receive benefit of funds collected, consistent with the requirements of Florida case law on impact fees. All expenditures of impact fee funds shall be consistent with F.S. 163.31801 and with the principles set forth in *Volusia County v. Aberdeen at Ormond Beach*, 760 So. 2d 126 (Fla. 2000), and *St. Johns County v. NE Fla. Builders Ass'n, Inc.*, 583 So. 2d 635 (Fla. 1991). *Contractors and Builders Association v. City of Dunedin*, 329 So. 2nd 606 (Fla. 1976), *Hollywood, Inc., v. Broward County*, 446 So. 2nd 606 (Fla. 4th DCA 1983), and *Home Builders and Contractors Association of Palm Beach County, Inc. v. Board of County Commissioners of Palm Beach County*, 446 So. 2nd 140 (Fla. 4th DCA 1984), cert. denied, 451 So. 2nd 848 (Fla. 1984).
- ~~(C) All park and recreation impact fee funds collected by the City shall be placed in an interest bearing separate accounting fund until such time as the expenditures authorized by this article will take place. Interest proceeds from these funds will accrue to the separate accounting fund. Park and recreation impact fee funds shall be used only for those capital improvements specified in the Park Program.~~
- ~~(D)~~ Audits of the City performed pursuant to F.S. § 218.39, shall include an affidavit from the chief financial officer of the City stating that the City has complied with F.S. § 163.31801.
- (D) Impact fees shall be encumbered and expended in the order in which they are collected.

Sec. 159.208. - Park and Recreation Impact Fee Schedule.

- (A) The amount of the fee shall be determined by the ~~attached~~ parks and recreation impact fee schedules adopted as an exhibit to this article. The 2013 2023 updated fee schedule, adopted pursuant to a City Council finding that extraordinary circumstances exist to justify increases beyond the phase-in limitations imposed by .S. § 163.31801 (2022), is set at the maximum justifiable level of the Technical Report and is subject to revision based upon the provisions of section 159.209.
- (B) The City Manager shall make a determination ~~determine the applicable land use type in the following circumstances:-~~

- (1) If a building or structure is requested for mixed uses, then the impact fee shall be determined through using the applicable fee schedule by apportioning the space committed to development types ~~uses~~ specified on the fee schedule.
 - (2) If the type of development ~~activity~~ for which a building permit is applied, or change of use is not specified on the applicable fee schedule, the City Manager shall use the fee applicable to the most nearly comparable type of ~~land~~ development on the fee schedule.
- (C) In the case of a change of use, redevelopment, or modification of an existing use, the impact fee shall be based upon the net increase in the impact fee for the new use as compared to the previous use. No impact fee refund will be granted if a net decrease results.
- (D) If the parks and recreation impact fee has been calculated and paid based on error or misrepresentation, it will be recalculated and the difference refunded to or requested from the original applicant or any successor in interest. If parks and recreation impact fees are owed, no permits of any type may be issued for the building or structure in question, or for any other portion of a development of which the building or structure in question is a part, until parks and recreation impact fees are paid.
- (E) The applicant may submit evidence to the City Manager demonstrating that the parks and recreation impact fees set forth herein ~~out in subsection (A)~~ are not reasonable when applied to the particular development. Based upon convincing and competent evidence and in accordance with the governing caselaw and statute, the City Manager may adjust the parks and recreation impact fee to be reasonable for the particular development.
- ~~(F) The applicant may provide a schedule and method for payment of the fees in a manner appropriate to the particular circumstances of the proposed development in lieu of the requirements for payment of the fees as set forth in section 159.205; provided that the City receives acceptable security ensuring payment of the fees prior to the issuance of a building permit. Such security may take the form of a cash bond, surety bond, irrevocable letter of credit, or a negotiable certificate of deposit. Liens or mortgages on lands to be covered by the building permit are not acceptable. Any agreement proposed by an applicant pursuant to this subsection must be approved by the City Council prior to the issuance of the building permit, certificate of occupancy, or other permit. The City Council may approve such agreements only if it finds that the agreement will apportion the burden of new capital facilities in a just and equitable fashion, consistent with the Florida statutory and case law.~~

EXHIBIT TO [SECTION 159.208](#)

- (A) ~~Fee Schedule Applicable to Building Permits Issued Prior to Midnight on September 5, 2013.~~ 2023 Updated Fee Schedule. The following fee schedule shall be applicable to all building permits issued on or after June 30, 2023.

Parks and Recreation Impact Fees — 2005 City of Port St. Lucie, Florida May 10, 2005 Revised 10-1-2012 pursuant to Section 9 of Ord. 05-86		
Land Use Type	Unit of Measure	Parks and Recreation Impact Fees *
Residential		
Single Family Detached	Per Unit	\$495.85
Multi-family/Other Residential	Per Unit	367.01

*Includes three (3) percent administrative charge.

- (B) ~~2013 Updated Fee Schedule.~~ The following fee schedule shall be applicable to all building permits issued on or after midnight on September 5, 2013.

2023 Updated Parks and Recreation Impact Fee Schedule	
Residential (per dwelling unit)	Parks and Recreation Fee
Single Unit Family	\$782.00 <u>\$3,141.00</u>
2+ Units per Structure <u>Multi-Family</u>	\$636.00 <u>\$2,054.00</u>
<u>Mobile Residence</u>	<u>\$2,539.00</u>

Sec. 159.209. - Adoption, Review and Revision.

- (A) The Council shall adopt all revisions and updates to the Park Program by ordinance.
- (B) The City Manager shall direct staff or consultants to annually review the impact fee ordinance, procedures, assumptions, and fee calculations and to issue, on or before July 1, an annual report summarizing information on the impact fees. Information on all impact fees imposed by the City may be included in one annual report. The annual report shall be distributed to the Council by the City Manager. The annual report should include, for example, information on account balances, annual collections, annual expenditures, capital improvement projects funded in whole or in part with impact fees, administrative costs and administrative fees charged, if any, and may

include any other issues of concern related to the City's impact fee system and ordinance. Information from the Annual Comprehensive annual Financial Report (CACFR), the capital improvements program (CIP) and any other reports or plans adopted by the City may be included by reference or duplicated in part for the annual impact fee report. ~~The annual report should include recommendations related to the impact fee system, including but not limited to, whether there is a need to update the fees based on the ENR construction cost index pursuant to subsection (D), the need for any updates to the impact fee calculations, and the need for any modifications to the ordinance. When increased fees are recommended, the report should include a discussion of affordable housing and how the increase might affect housing affordability. Based upon the annual report, the Council may, but is not required to, direct further action on the impact fee system.~~ Nothing in this article shall be construed to limit the Council's authority to amend this article at any time.

- (C) The Council shall, through staff or consultants, review and, if needed, update the Technical Report Park and Recreation Impact Fee Study and ordinance at least once every four (4) years. Fee studies should specifically address affordable housing methodologies and/or alternative methods of setting fees, such as tiered impact fees based on square footage for residential fees or reduction of impact fees for in-fill housing or housing in different areas of the City, such as CRA, etc. new estimates of population and other socioeconomic data, changes in construction, land acquisition and related costs, and adjustments to the assumptions, and account for any changes in the governing law. The report issued based on this review shall be distributed to the Council by the City Manager. Changes to the impact fee system, including updated fee calculations, should be adopted within a year of completion of the quadrennial report. This quadrennial report shall be issued on or before July 1 in the applicable years and may substitute for the annual report in that year.
- ~~(D) In conjunction with the annual report, the City Manager shall review the park and recreational facility impact fee schedule each calendar year to account for changes in the costs of construction and property acquisition. The adjusted fee schedule shall be adopted by ordinance and any increases in the fee schedule shall not be effective prior to ninety (90) days after adoption of such ordinance. Unless otherwise directed by the Council, any such annual adjustments to the park and recreational facility impact fee schedule shall be based on the engineering news record (ENR) construction cost index or such other indexes or computations determined by the City Manager to be suitable for use in the City of Port St. Lucie, Florida to reflect the cost of park and recreation facility construction and land acquisition.~~

Sec. 159.210. – Construction or donation of property in lieu of impact fee payments.

- (A) In lieu of all or part of the parks and recreation impact fee, the applicant may offer to construct capital improvements, or dedicate or donate property for a parks and recreation facility described in the Park Program. The applicant shall submit an estimate of the cost of a proposed capital improvement certified by a registered Florida professional

engineer, architect or landscape architect acceptable to the Council and an appraisal of the fair market value of a proposed donation of property prepared by a state certified general appraiser who is a member of the Appraisal Institute (MAI), acceptable to the Council.

- (B) If it finds the offer acceptable, the Council may enter into an agreement with the applicant to apply the cost of the construction of a parks and recreation improvement, ~~and the~~ fair market value of the property dedication or donation, to the parks and recreation impact fees otherwise due. The portion of the fee represented by the construction of a parks and recreation improvement facilities or property dedication or donation shall be considered paid when the construction or donation is completed and accepted by the City (or other governmental entity as may be approved by the City) for maintenance or when adequate security for the completion of the construction has been provided. If parks and recreation impact fees are owed, no development permits of any type may be issued for the building or structure in question while the fee remains unpaid. The City Manager may authorize the initiation of any action as permitted by law or equity to collect the unpaid fees.
- (C) The City shall not give impact fee credits for impact fees paid, or capital improvements constructed, or dedications or donations of property, except to the extent that such credit was specifically granted by the City to an applicant in a binding written agreement with the City. If an applicant or successor in interest or predecessor in title has agreed in a binding written agreement with the City or other governmental agency not to seek or accept any impact fee credits then it shall not be given impact fee credits, ~~or be eligible for in-lieu payments,~~ for the construction of capital improvements or the dedication or donation of property required by the agreement.
- (1) The holder of any impact fee credits granted by the City, shall be entitled to redeem such credits for the full benefit of the density or intensity represented by such credits as of the date of issuance, notwithstanding any subsequent increase in impact fee rates. The transferability of any impact fee credits granted by the City shall be in accordance with state law.
 - (2) Credit for contributions, payments, construction or dedications of the parks and recreation impact fee shall not be transferrable as a credit against other impact fees imposed for purposes other than parks and recreation.
 - (3) Unless otherwise agreed to in writing in relation to an excess of parks and recreation impact fee credits, no credit shall exceed the amount due for the parks and recreation impact fee.
- (D) The City may adopt policies and procedures related to construction or donation of property in lieu of impact fee payments by resolution.

Sec. 159.211. - Refund of Fees Paid.

- (A) If a building permit or a permit for a mobile home or recreational vehicle expires or is canceled, and no construction has been commenced, then the applicant or its successors may request, within three (3) months of permit expiration or cancellation, a refund of the impact fee paid ~~as a condition for its issuance~~ without payment of interest. The refund request should substantially follow the submittal requirements of a refund petition as described in subsection (B)(2). ~~If administrative charges are adopted by resolution under section 159.207,~~ The City shall retain any administrative charges ~~the appropriate fee amount~~ as reimbursement for the City's cost of processing the refund.
- (B)(1) Any impact fee funds not expended or encumbered by the end of the calendar quarter immediately following seven (7) years from the date the parks and recreation impact fee ~~was paid~~ payment was received shall, upon application of the current owner of the property within one hundred eighty (180) days of the expiration of the seven (7) year period, be returned to the current owner of the property with interest at the rate of three (3) percent per annum.
- (2) If such funds have not been spent during this time period, the then-present owner of the property may obtain a refund according to the following procedure:
- (i) The then-present owner must petition the ~~City~~ Council for a refund within one hundred eighty (180) days of the expiration of the seven (7) year period.
- (ii) The petition must be submitted to the City Manager and must include the following:
- (a) A notarized, sworn statement that the petitioner is the current owner of the property;
- (b) A copy of the dated receipt issued for payment of the parks and recreation impact fee;
- (c) A certified copy of the latest recorded deed; and
- (d) A copy of the most recent ad valorem tax bill.
- (3) Within sixty (60) days from the date of receipt of the petition for a refund, the City Manager, ~~or his designee~~, shall advise the petitioner and the ~~City~~ Council of the status of the fee requested for refund. For purposes of determining whether the parks and recreation impact fees have been spent or encumbered, the first money placed into the special revenue account shall be deemed to be the first money taken out of that account.
- (4) When the money requested is still in the special revenue account and has not been spent or encumbered by the end of the calendar quarter immediately following seven (7) years from the date the parks and recreation impact fees were paid, the funds shall be returned with interest at the rate of three (3) percent per annum. ~~If administrative charges are adopted by resolution under section 159.2307,~~ The City shall retain any administrative

charges ~~the appropriate fee amount~~ as reimbursement for the City's cost of processing the refund.

Sec. 159.212. - Appeals.

- (A) Any decision made by the City Manager in the course of administering the provisions of this article may be appealed to the Council by filing a petition of appeal within thirty (30) calendar days of the date of the rendition of the decision.
- (B) The Council shall review the petition at a public meeting within thirty (30) calendar days from the date of filing the appeal. The petitioner shall be provided reasonable notice of the time, date, and place of the public meeting by certified mail, return receipt requested, and invited to attend. The Council's decision shall be final for the purpose of administrative appeals. The Council shall revoke the decision of the City Manager only if there is no competent and substantial evidence in the record supporting the decision of the City Manager or that there is no adequate legal basis for the decision of the City Manager or there was a failure to substantially comply with this article. A determination shall be made in writing and issued within thirty (30) days of the hearing.

Section 3. Conflict. If any ordinances, or parts of ordinances, resolutions or parts of resolution, are in conflict herewith this Ordinance shall control to the extent of the conflicting provisions.

Section 4. Severability. The provisions of this Ordinance are intended to be severable. If any provision of this Ordinance is determined to be void or is declared illegal, invalid, or unconstitutional by a Court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

Section 6. Codification. The provisions of this Ordinance shall be made a part of the Code of Ordinances of the City of Port St. Lucie, Florida. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; the word "ordinance" may be changed to "section" or other appropriate word as may be necessary.

Section 7. Effective Date. This Ordinance shall become effective on June 30, 2023.

PASSED AND ADOPTED by the City Council of the City of Port St. Lucie, Florida, on this ___ day of _____, 2023.

CITY COUNCIL
CITY OF PORT ST. LUCIE

BY: _____
Shannon M. Martin, Mayor

ATTEST:

Sally Walsh, City Clerk

APPROVED AS TO FORM:

James D. Stokes, City Attorney