

ORDINANCE NO. 2008-30

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LADY LAKE, FLORIDA, AMENDING CHAPTER 13 OF THE TOWN OF LADY LAKE CODE OF ORDINANCES TO PROVIDE FOR PARK IMPACT FEES, FINDING A NEED FOR PARK IMPACT FEES; PROVIDING FOR THE SETTING OF PARK IMPACT FEE RATES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE OF NINETY DAYS AFTER ADOPTION.

WHEREAS, the Town of Lady Lake continues to develop and expand by annexation and by increased development of property currently within the municipal boundaries; and

WHEREAS, the Town of Lady Lake has undertaken a reasonable analysis for the determination of the impact of new development on the need for and costs of additional park facilities and capital improvements in the Town of Lady Lake; and

WHEREAS, the Town of Lady Lake has adopted a comprehensive plan which requires the Town to plan for the financial requirements of growth and intensified uses; and

WHEREAS, the imposition of a park impact fee is seen as a proper means of requiring growth to help defray the capital expenditures necessary by such growth.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LADY LAKE THAT:

Section 1. Findings

- A. The Town Commission has determined that the Town of Lady Lake must expand its park facilities 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;
- B. The Town Commission has determined that the Florida Legislature, through the enactment of the "Florida Impact Fee Act," Section 163.31801, encourages local governments to adopt innovative approaches to development;
- C. The Town Commission has determined that the imposition of impact fees is one of the preferred methods of ensuring that development bears a proportionate share of the cost of capital improvements necessary to accommodate such development. This must be done in order to protect the public health, safety, and welfare;
- D. The imposition of impact fees is consistent with the Town of Lady Lake Comprehensive Plan;
- E. The type of land development described in section 13-46, will create demand for the acquisition or expansion of parks and the construction of park improvements;

- F. The implementation of a park impact fee to require future growth to contribute its fair share of the cost of required capital improvements and additions is an integral and vital element of the regulatory plan of growth management in the Town;
- G. The fees established by section 13-46 are derived from, are based upon, and do not exceed the costs of providing additional parks and park improvements necessitated by the new land developments for which the fees are levied; and
- H. The report entitled "Parks & Recreation and Library Impact Fee Study: Prepared by Burton & Associates" sets forth a reasonable methodology and analysis for the determination of the impact of new residential development on the need for and costs for additional park facilities and capital improvements in the Town.

Section 2. Amendment

Chapter 13 entitled "Special Assessments" of the Town of Lady Lake Code Of Ordinances is hereby amended as follows:

CHAPTER 13

SPECIAL ASSESSMENTS*/ IMPACT FEES/ SUPPLEMENTAL FEES

Article IV: Town of Lady Lake Park Impact Fee Ordinance

Sec. 13-40: Short Title, Authority and Applicability

- (a) This chapter shall be known and may be cited as the "Town of Lady Lake Park Impact Fee Ordinance."
- (b) The Town Commission 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 Town limits of Lady Lake.

Sec. 13-41: Intent and Purpose

- (a) This chapter is intended to assist in the implementation of the Town of Lady Lake 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 the Town of Lady Lake.

Sec. 13-42: 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.

Sec. 13-43 Definitions

As applied in this article, the following words and terms shall have the following meanings, unless another meaning is clearly intended:

Certificate of Occupancy shall mean a Certificate of Occupancy issued by the Town of Lady Lake government pursuant to the Town building code, or equivalent municipal permit. If no Certificate of Occupancy is required for the construction or occupation of a structure then the term shall be deemed to include the Building Permit or other form of final Town approval, or equivalent municipal permit or approval, for the construction or occupancy of a structure. The term "Certificate of Occupancy," as used in this article, shall be deemed to include a Mobile Home installation permit issued pursuant to the Town building code, or equivalent municipal permit or approval.

Fee payer shall mean a person commencing a land development activity by applying for the issuance of a Certificate of Occupancy or Building Permit to construct a residential dwelling unit.

Mobile Home shall mean a detached Single-Family Dwelling Unit with all the following characteristics: (1) designed for long term occupancy, and containing sleeping

accommodations, a flush toilet, a tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems; (2) designed for transportation after fabrication on streets or highways on its own wheels; and (3) arriving at the site where it is to be occupied as a dwelling complete, including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connection to utilities and the like. A travel trailer is not to be considered as a Mobile Home.

Residential Dwelling Unit shall mean a room or rooms connected together, constituting a separate, independent housekeeping entity for residential occupancy or rental or lease; and physically separated from any other rooms or Dwelling Units which may be in the same structure; and containing sleeping and sanitary facilities and one kitchen. The term "Dwelling Unit," as used in this article, shall be deemed to include apartment units, condominium units, single-family homes, units in two-family and multiple-family homes, and mobile home dwellings, but shall not include motels, hotels, or boardinghouses for transient guests.

Town Commission means the legislative and policy-making board of the Town of Lady Lake.

Sec. 13-44: Imposition of Park Impact Fee

- (a) Any person who, after March 2, 2009, seeks to develop land within the limits of the Town of Lady Lake, 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 13-46 shall be issued by the Town of Lady Lake unless and until the park impact fee hereby required has been paid.

Sec. 13-45: Review of Fee Amounts

The park impact fee shall be determined and reviewed every five (5) years in accordance with the cost of any expanded or new capital facilities and equipment for park facilities and capital improvement generated by new residential construction and the money otherwise available to meet such costs. The Town Commission may annually adjust the established fee rate to reflect changes in the costs of relevant capital facilities, capital improvement, and equipment. All changes or adjustments in the established fee rate shall be made by ordinance after advertising and public hearings and shall apply only to residential construction for which building permits are issued after the effective date of such ordinance.

Sec. 13-46: Rates

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

Park Impact Fee	
Development Type and Unit	Fee
All residential buildings	\$2,332.00 per residential dwelling unit

The payment of the park impact fee shall be in addition to all other fees, charges or assessments due for the issuance of a building permit or final development order. This fee was calculated based on a model developed by Burton & Associates in their study, "Town of Lady Lake Impact Fee Study." This model was crafted to meet the common law and statutory requirement that the fee (I) have a rational nexus between the anticipated need for additional capital facilities and growth and population, and (II) have a rational nexus between the expenditure of funds collected and the benefits accruing to the growth. See § 163.31801, *Florida Statutes*; *St. Johns County v. Northeast Florida Builder's Ass'n, Inc.*

(b) If a fee payer opts not to have the impact fee determined according to paragraph (a) of this section, then the fee payer shall prepare and submit to the Town Manager 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 Town Manager shall consider the documentation submitted by the fee payer but is not required to accept such documentation if he or she reasonably deems it to be inaccurate or not reliable and may, in the alternative, require the fee payer to submit additional or different documentation for consideration. If an acceptable independent fee calculation study is not presented, the fee payer 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 Town Manager may adjust the fee to that appropriate to the particular development. The adjustment may include a credit against the fee otherwise payable up to fifty percent (50%) for private recreational purposes by the fee payer which serve the same purposes and functions as set for public parks in the comprehensive plan. Determinations made by the Town Manager pursuant to this paragraph may be appealed to the Town Commission by filing a written request with the Town Commission within ten (10) days of Town Manager's determination.

(c) The obligation for payment of the park impact fee shall run with the residential land.

Sec. 13-47: Time of Payment; Remedies for Nonpayment

The park impact fee shall be due and payable at the time of issuance by the Town Growth Management Department of a building permit or mobile home tie down permit and shall not be refundable once such permit has been issued. No building permit or mobile home tie down permit shall be issued until all applicable fees have been received by the Town of Lady Lake.

Sec. 13-48: Park Impact Fee Trust Fund Established

- (a) There is hereby established a special park impact fee trust fund.
- (b) Funds withdrawn from this account must be used in accordance with the provisions of section 13-49.

Sec. 13-49: Use of Park Impact Fees

- (a) Funds collected from the park impact fee shall be used solely for the purpose of acquiring and/or making capital improvements to parks and recreation facilities under the jurisdiction of the Town of Lady Lake and shall not be used for maintenance or operations.
- (b) Funds shall be expended in the order in which they are collected.
- (c) In the event that bonds or similar debt instruments are issued for advanced provision of park capital improvements 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 improvements provided are of the type described in paragraph (a) above and are located within the Town.
- (d) At least once each fiscal period, the Town Manager shall present to the Town Commission 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.
- (e) 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.
- (f) Projects funded with park impact fees shall be consistent with the capital improvements element of the comprehensive plan. If a project is not in the capital improvements element, then it shall be added during the next update of the comprehensive plan.
- (g) Projects funded with park impact fees shall be consistent with the parks, recreation and open space element and the comprehensive plan. If a project is not in the parks, recreation and open space element or the comprehensive plan, then it shall be added during the next update of the plan.
- (h) Funds collected, not to exceed the cost set forth in section 13-52, 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. 13-50: Exceptions

This Article shall apply to all new residential construction within the Town limits except the following:

- (a) Remodeling, replacing, rebuilding or making additions to a residential structure, including a mobile home, which does not create an additional residential dwelling unit;
- (b) Construction of any public-purpose structure by the Town of Lady Lake or any agency, subdivision or instrumentality thereof; and construction of any other public-purpose structure by Federal, State, or local government with legislative exemption from such fee;

- (c) Construction of accessory buildings not containing bedrooms;
- (d) The replacement of any residential dwelling unit on the same site with a new residential dwelling unit, provided the replacement does not create any additional residential dwelling units. If an additional dwelling unit is created, the additional dwelling unit is not exempt from the requirements of this ordinance. By way of example, if a ten-unit apartment complex is demolished and replaced with a fifteen-unit apartment complex, only the first ten units will be exempt from the impact fee. The five additional dwelling units will be subject to the impact fee as provided in section 13-46 of this article;
- (e) The installation of a replacement mobile home on the same which does not create an additional residential dwelling unit;
- (f) Non-residential buildings or structures or the installation of a non-residential mobile home;
- (g) The replacement of a conventionally built home with a conventionally built home when a conventionally built home legally existed on such site and has been moved to another site.

Sec. 13-51: Credits

- (A) All park projects where park impact fee credit is provided shall be consistent with the parks and recreation and capital improvements element of the comprehensive plan. If a park project is not in the parks and recreation and capital improvements element, then it shall be added during the next update of the comprehensive plan.
- (B) Park land and/or park capital improvements may be offered by the fee payer 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 Town Manager accepts such an offer, the credit shall be determined and provided in the following manner:
 1. Credit for the dedication of this land shall be valued at:
 - a. 115 percent of the most recent assessed value by the property appraiser, or
 - b. By fair market value established by private appraisers acceptable to the Town, or
 - c. By such other appropriate measure as the Town Commission may accept.
 2. Applicants for credit for construction of park capital improvements shall submit acceptable engineering drawings and specifications, and construction cost estimates to the Town Manager. The Town Manager shall determine credit for construction based upon either these cost estimates or upon alternative engineering criteria and construction cost estimates if the Town Manager determines that such estimates submitted by the applicant are either unreliable or inaccurate. The Town Manager 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 indicate his or her agreement to

the terms of the letter or certificate and return such signed document to the Town manager before credit will be given. The failure of the applicant to sign, date, and return such document within sixty (60) days shall nullify the credit.

3. Except as provided in subparagraph (4), credit against impact fees otherwise due will not be provided until:
 - a. The construction is completed and accepted by the Town; or
 - b. A suitable maintenance and warranty bond is received and approved by the Town Manager when applicable.
 4. Credit may be provided before completion of specified park capital improvements if adequate assurances are given by the fee payer that the standards set out in subparagraph (3) will be met and if the fee payer 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 Town of Lady Lake in an amount determined by the Town Manager. If the park construction project will not be constructed within one (1) year of the acceptance of the offer by the Town Manager, the amount of the security shall be increased by ten percent (10%) compounded, for each year of the life of the security. If the park construction project is not to be completed within five (5) years of the fee payer's offer, the Town Commission must approve the park construction project and its scheduled completion date prior to acceptance of the offer by the Town Manager.
- (C) Any claim for credit must be made no later than the time of application for a certificate of occupancy. Any claim not so made shall be deemed waived.
- (D) Credits shall not be transferable from one project or development to another without the approval of the Town Commission.
- (E) Determinations made by the Town Manager shall be approved by the Town Commission in order to be effective.

Sec. 13-52: Cost to Implement

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.

Section 3. Severability

The provisions of this ordinance are declared to be separable and if any section, sentence, clause or phrase of this ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not effect the validity of the remaining sections, sentences, clauses or phrases of this ordinance, but they shall remain in effect, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any part.


Section 4. Inclusion in the Town of Lady Lake Code of Ordinances and the Town of Lady Lake Land Development Regulations

It is the intention of the Town Commission of the Town of Lady Lake that the provisions of this ordinance shall become and be made a part of the Town of Lady Lake Code of Ordinances and the Town of Lady Lake Land Development Regulations and that the sections of this ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to "section", "article" or such other appropriate word or phrase to accomplish such intentions.

Section 5. Effective Date

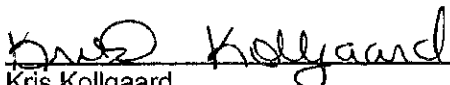
This ordinance shall become effective on the ninetieth day after final reading and adoption by the Town Commission of Town of Lady Lake, Florida as provided by law.

PASSED AND ORDAINED in regular session of the Town Commission of the Town of Lady Lake, Lake County, Florida, this 1st day of December, 2008.

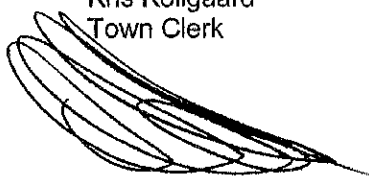


HONORABLE _____, MAYOR
Town of Lady Lake, Florida

ATTEST:



Kris Kollgaard
Town Clerk



Derek Schroth
Town Attorney

Passed First Reading 11-17-08

Passed Second Reading 12-1-08