

**ORDINANCE NO. 04-1124**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF HAINES CITY, POLK COUNTY, FLORIDA TO ESTABLISH MUNICIPAL SERVICES IMPACT FEES; PROVIDING FOR THE IMPOSITION OF MUNICIPAL SERVICE IMPACT FEES ON LAND DEVELOPED IN THE CITY OF HAINES CITY FOR THE PROVISION OF MUNICIPAL SERVICES CAPITAL FACILITIES RELATED TO POLICE, FIRE, RECREATIONAL, AND LIBRARY SERVICES NECESSITATED BY NEW DEVELOPMENT PROVIDING FOR SHORT TITLE; PROVIDING FOR FINDINGS, PURPOSE AND INTENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR IMPLEMENTING REGULATIONS FOR MUNICIPAL SERVICES IMPACT FEES; REPEALING CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

THEREFORE NOW,

BE IT ENACTED BY THE PEOPLE OF THE CITY OF HAINES CITY, FLORIDA:

The City of Haines City does ordain as follows:

Section 1. Short Title, Authority, and Applicability.

- (1) This article shall be known and may be cited as the "City of Haines City Municipal Services Impact Fee Ordinance."
- (2) This article is enacted pursuant to the general power, the authority granted to cities by Article VIII, Section 2(b) of the Florida Constitution, and Section 166.021 of the Florida Statutes.
- (3) The provisions of this Ordinance shall apply within the corporate limits of the City of Haines City.

Section 2. Findings, Purpose and Intent.

The City of Haines City Commission hereby makes and expresses the following findings, purposes, and intent:

- (1) Article VIII, Section 2(b) of the Florida Constitution and Section 166.021 of the Florida Statutes grant the City of Haines City broad home rule powers necessary to carry on municipal government.
- (2) Section 163.3202(3) of the Florida Statutes encourages the use of innovative land development regulations which include the use of impact fees to implement the goals, objectives and policies of a City's Comprehensive Plan.
- (3) Significant growth has been occurring and is expected to continue to occur in the areas that are provided municipal services by the City.

- (4) Growth within the Service Area has resulted in the need to expand municipal services to accommodate the demands imposed by such growth without decreasing the current level of municipal services at the cost of existing users.
- (5) Expansion of municipal services to accommodate new growth shall promote and protect the public health, safety and general welfare of the residents of Haines City.
- (6) In order for future growth to pay more equitably the cost of expanding municipal services to meet the demands imposed by such growth, the City Commission finds that the adoption of Municipal Services Impact Fees, to be levied as one-time charges upon new developments within the City or new demand on the system created through expansions or renovations, is an appropriate and equitable method of capital cost recovery.
- (7) The intent of the Municipal Services Impact Fees is to recover only the pro rata share of the costs incurred to meet the demands of growth.
- (8) The report entitled "City of Haines City, Florida Municipal Services Impact Fee Study", dated June 11, 2004, sets forth a reasonable methodology and analysis for the determination of the impact of new development on the need for and costs of additional municipal services capital facilities in the City of Haines City.
- (9) The City Commission of the City of Haines City has received and accepted the Municipal Services Impact Fee Study (the "Impact Fee Study") prepared by Public Resources Management Group, Inc. as of June 11, 2004.
- (10) The Impact Fee Study sets forth the calculations and basis for the impact fees utilized and associated with the provision of municipal services for police, fire/rescue, recreation and library.
- (11) The City Commission's intent is to expend the Municipal Services Impact Fees collected pursuant to this article only for the purposes for which they were collected, specifically, to defray the capital cost incurred to meet the demands imposed by growth.
- (12) In order to equitably distribute the proportionate fair share of new municipal services on new developments within the City of Haines City that create the need for such municipal services, it serves the health, safety and general welfare of the residents of the City of Haines City to enact this ordinance establishing Municipal Services Impact Fees.

### Section 3. Definitions.

Unless specifically defined below, words or phrases used in this article shall be interpreted to give this article its most reasonable application, consistent with state and federal law and other city and county regulations. The following words and phrases shall have the following meanings unless the context requires otherwise:

- (1) *City commission* or *city* means the City Commission of the City of Haines City, Florida, a political subdivision of the state.

- (2) *Building* means any structure whether temporary or permanent, built for the support, shelter, or enclosure of persons, chattles, or property of any kind. This term shall include tents, trailers, mobile homes, or any vehicles serving in any way the function of a Building. This term shall not include temporary construction sheds or trailers erected to assist in construction and maintenance during the term of a Building Permit.
- (3) *Building Permit* means an official document or certificate issued by the authority, city or county, having jurisdiction authorizing the commencement of construction of any Building or parts thereof; the term also includes construction plan approval for new mobile home development and new recreational vehicle spaces.
- (4) *Complete Submittal for a Building Permit* shall include, but not be limited to: 1) set of Construction Plans; 2) set(s) of site/plot Plans; 3) sealed set(s) of Truss Calculations; 4) Energy Calculations; 5) Landscaping Plans; 6) set(s) of window & door specifications; 7) completed Building Permit Application; and 8) a copy of Filed Notice of Commencement.
- (5) *Comprehensive Plan* means the Comprehensive Plan of the City of Haines City adopted and amended pursuant to the Local Government Comprehensive Planning and Land Development Act.
- (6) *Dwelling Unit* means any housing unit for the purpose of providing residential shelter; each single-family residential unit; each housing unit within a residential condominium, duplex, triplex, mobile home, modular housing, manufactured home, or multiple family building designated or intended to provide human habitation.
- (7) *Encumbered*, in reference to funds for capital improvements, means funds committed in the capital improvements program for a specified improvement on a specified time schedule.
- (8) *Existing Structure* means a structure for which an impact fee has never been paid.
- (9) *Land* means the earth, water and air above, below, or on the surface, and includes any improvements or structures customarily regarded as land.
- (10) *New Structure* means a structure for which the Building Permit was issued on or after the effective date of this Ordinance.
- (11) *Non-residential Structure* means any Building, which encloses space for the occupancy by persons or their activities, other than residential dwellings, including but not limited to professional buildings, commercial and industrial buildings, hotels, and motels.
- (12) *Residential Structure* means Dwelling Unit as defined above.
- (13) *Schedule of Impact Fees* means the schedule of fees incorporated in of this article.
- (14) *Square Footage (GSF)* means the gross area measured in feet from the exterior faces of exterior walls or other exterior boundaries of the Building or structure.

#### Section 4. Applicability.

This article shall apply to the Service Area, which shall be that area within the incorporated area of the City of Haines City, including those areas that are annexed into the City after the effective date of this Ordinance, to finance capital facilities, the need for which is created by new development, including:

- (1) Police Services Impact Fees
- (2) Fire Protection Services Impact Fees
- (3) Recreation Services Impact Fees
- (4) Library Services Impact Fees

#### Section 5. Payment of Municipal Services Impact Fees.

Any person who seeks to develop land within the City of Haines City by applying for a Building Permit is hereby required to pay a municipal services impact fee in the manner and amount set forth in the Schedule of Impact Fees. The Municipal Services Impact Fee shall be paid prior to receipt of a building permit, and shall be equal to the sum of the applicable police services and fire/rescue services impact fees for all Building Permit applications, plus the recreation and library services impact fees when the Complete Submittal for a Building Permit is presented to the City for one or more Dwelling Units.

#### Section 6. Schedule of Impact Fees.

- (1) Specified Uses. The municipal services impact fee shall be the sum of the applicable police services and fire/rescue services impact fees for all Building Permit applications, plus the recreation and library services impact fees when the Complete Submittal for a Building Permit is presented to the City for one or more Dwelling Units, using the following schedules:

- (a) Police Services Impact Fee Schedule

|                           |                            |
|---------------------------|----------------------------|
| Residential Structure     | \$210.00 per Dwelling Unit |
| Non-residential Structure | \$0.13 per Square Foot     |

- (b) Fire Protection Services Impact Fee Schedule

|                           |                            |
|---------------------------|----------------------------|
| Residential Structure     | \$156.00 per Dwelling Unit |
| Non-residential Structure | \$0.19 per Square Foot     |

- (c) Recreation Services Impact Fee Schedule

|                       |                            |
|-----------------------|----------------------------|
| Residential Structure | \$400.00 per Dwelling Unit |
|-----------------------|----------------------------|

(d) Library Services Impact Fee Schedule

Residential Structure                      \$184.00 per Dwelling Unit

- (2) Unspecified Uses. If the type of development activity that a Building Permit is applied for is not specified on the Schedule of Impact Fees, the City Manager or designee shall determine the appropriate fee by considering demographic or other documentation, which is available.
- (3) Change in Use or Density. In the case of change in use, redevelopment, or expansion or modification of an existing use of a site which requires the issuance of a Building Permit, the municipal services impact fee shall be based upon the net increase in the Municipal Services Impact Fee for the new use as compared to the most intense previous use on or after August 1, 2004 (the Effective Date of this Ordinance).
- (4) Alternative Fee Calculation. In the event that an applicant believes the impact of the construction will be less than that set forth above, the applicant may, at his option, submit evidence to the city commission through the City Manager or his/her designee in support of an alternative assessment. Based upon convincing and competent evidence, the city commission may adjust the impact fee charged to the applicant as appropriate for the particular property and as determined to be in the best interests of the City by the City Commission.

Section 7. Periodic Adjustment of Municipal Services Impact Fees.

On June 1 of each year after the adoption of this article, the Schedule of Impact Fees in Section 7 herein shall be adjusted upward, if appropriate, by the same percentage that the construction price index-20 cities average, as published in the magazine "Engineering News Record," has increased between May 1 of the year in which the adjustment is being made and May 1 of the prior year. At no time shall the Schedule of Impact Fees be adjusted downward.

Section 8. Required Time of Payment.

- (1) Payment of the Municipal Services Impact Fees in advance of filing a Building Permit application and a Complete Submittal for a Building Permit, as appropriate, (prepayment) will not be accepted by the City of Haines City.
- (2) No Building Permit requiring payment of a Municipal Services Impact Fee pursuant to this article shall be issued unless and until the Municipal Services Impact Fee required has been paid.
- (3) No extension of a Building Permit issued prior to the effective date of this Ordinance for any activity requiring payment of an impact fee pursuant to the Schedule of Impact Fees shall be granted unless and until the municipal services impact fee herein required has been paid.
- (4) In the event Municipal Services Impact Fees are paid concurrently with the Building Permit application and a Complete Submittal for a Building Permit, as appropriate, and subsequently, the Building Permit is amended, the applicant shall pay the

municipal services impact fee in effect at the time the amended Building Permit is issued with credit being given for the previous fees paid.

Section 9. Municipal Services Impact Fee Trust Funds Established.

- (1) There are hereby established four (4) non-lapsing trust funds; the Police Services Impact Fee Trust Fund, the Fire Protection Services Impact Fee Trust Fund, the Recreation Services Impact Fee Trust Fund, and the Library Services Impact Fee Trust Fund.
- (2) Municipal Services Impact Fees collected pursuant to this Ordinance shall be segregated into either the Police Services Impact Fee Trust Fund, the Fire Protection Services Impact Fee Trust Fund, the Recreation Services Impact Fee Trust Fund, or the Library Services Impact Fee Trust Fund, as applicable, and the four (4) trust funds shall not be commingled.
- (3) Funds withdrawn from either the Police Services Impact Fee Trust Fund, the Fire Protection Services Impact Fee Trust Fund, the Recreation Services Impact Fee Trust Fund, or the Library Services Impact Fee Trust Fund shall be used in accordance with the provisions of this article.

Section 10. Use of Municipal Services Impact Fee Funds.

- (1) At least once each fiscal year, the City Manager or designee shall present to the City Commission a proposed capital improvement program for police, fire/rescue, recreation, and library assigning funds, including any accrued interest from the applicable impact fee trust fund to specific improvement projects and related capital costs. Monies, including any accrued interest, not assigned in any fiscal year shall be retained in the same impact fee trust fund until the next fiscal year.

- (2) Debt Service

In the event that bonds or other debt instruments are issued for advance provision of police, fire/rescue, recreation, or library capital requirements for which the Municipal Services Impact Fees were intended to fund the growth related demands, impact fees may be used to pay debt service on such bonds or other debt instruments to the extent that the proceeds of the bonds (and a pro rata share of the cost of issuance) are expended upon the capital facilities.

- (3) Police Services

Funds collected for police services impact fees pursuant to shall be used solely for the purpose of acquiring or expanding police services capital equipment and/or facilities under the jurisdiction of the City.

- (4) Fire Protection Services

Funds collected for fire protection services impact fees pursuant to shall be used solely for the purpose of acquiring or expanding fire/rescue services capital equipment and/or facilities under the jurisdiction of the City.

(5) Recreation

Funds collected for recreation impact fees pursuant to shall be used solely for the purpose of acquiring or expanding recreation capital equipment and/or facilities under the jurisdiction of the City.

(6) Library

Funds collected for impact fees pursuant to shall be used solely for the purpose of acquiring or expanding library capital equipment and/or facilities under the jurisdiction of the City.

Section 11. Personal Liability, Lien for Collection.

- (1) Any person securing a Building Permit, and any person performing activities for which a Building Permit is required, and all owners of the land upon which such activities are performed, shall be jointly and severally liable for the municipal services impact fees imposed by this Ordinance. In addition to any other remedy provided by law, the City may proceed in a court of competent jurisdiction to collect such fee from any or all of such persons as provided by law. The term *person* means any natural person, corporation, limited liability company, partnership, firm or other entity or organization, and with regard to any entity which is not a natural person, shall include the officers and directors of any corporation; the general partners of any general or limited partnership, the members of any limited liability company, and the equity owners of any other entity not specifically listed.
- (2) Failure to pay the Municipal Services Impact Fees when determined by the City as required to satisfy the impact of development shall result in the amount becoming a lien against the property, as provided for herein. The City shall provide written notice of the fees due by (1) personal service, (2) certified United States mail, return receipt requested, or (3) Federal Express or other equivalent overnight letter carrier. Upon failure to pay the fees within thirty (30) days of the date of notice, a Notice of Lien shall be served by (1) personal service, (2) certified United States mail, return receipt requested, or (3) Federal Express or other equivalent overnight letter carrier, advising the property owner that the City shall file a Claim of Lien against the property in question. Once recorded, the Claim of Lien may be foreclosed as provided for in Chapter 170 and Chapter 173 of the Florida Statutes, or in the same manner as a real estate mortgage, or in any other manner now or hereafter specified by applicable law. The lien for unpaid impact fees shall be coequal with the lien for state, county, special district, and municipal taxes and superior in right to all other liens and encumbrances, including mortgages and judgment liens regardless of the date of creation or perfection thereof. The liens shall have duration of twenty (20) years from the date of issuance of the Building Permit.

Section 12. Severability.

If any portion of this ordinance is declared invalid or unenforceable, then to the extent it is possible to do so without destroying the overall intent and effect of this ordinance, the portion deemed invalid or unenforceable shall be severed herefrom and the remainder of this ordinance shall

continue in full force and effect as if it were enacted without including the portion found to be invalid or unenforceable.

Section 13. Conflict.

All ordinances or parts of ordinances which are in conflict with this ordinance are hereby repealed, to the extent necessary to alleviate the conflict, but shall continue in effect insofar as they are not in conflict herewith, unless repeal of the conflicting portion destroys the overall intent and effect of any of the conflicting ordinances, in which case those ordinances so affected shall be hereby repealed in their entirety.

Section 14. Codification.

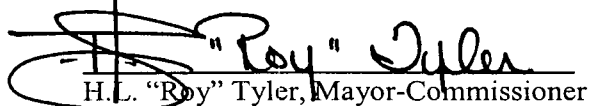
It is the intention of the City Commission of the City that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City; and that sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "chapter", "section", "article", or such other appropriate word or phrase in order to accomplish such intentions; and regardless of whether such inclusion in the Code is accomplished, sections of this Ordinance may be renumbered or relettered and the correction of typographical errors which do not affect the intent may be authorized by the City Manager, without need of public hearing, by filing a corrected or recodified copy of same with the City Clerk.

Section 15. Effective Date.

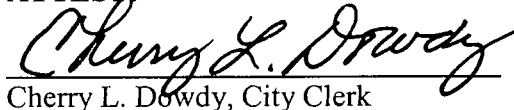
This ordinance shall become effective on August 1, 2004.

**INTRODUCED AND PASSED** on first reading in regular session of the City Commission of the City of Haines City, Florida, this 1st day of July, 2004.

APPROVED:

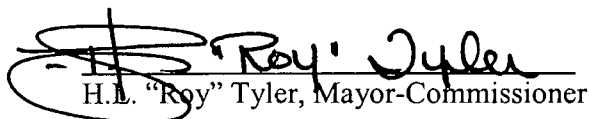
  
H.L. "Roy" Tyler, Mayor-Commissioner

ATTEST:

  
Cherry L. Dowdy, City Clerk

**PASSED** on second and final reading by the City Commission of the City of Haines City, Florida, at regular session this 15 day of July, 2004.

APPROVED:


  
H.L. "Roy" Tyler, Mayor-Commissioner



ATTEST:

  
Cherry L. Dowdy, City Clerk

APPROVED AS TO FORM AND CORRECTNESS:

  
Thomas A. Cloud, City Attorney

STATE OF FLORIDA  
COUNTY OF POLK

I, the undersigned duly appointed City Clerk of the City of Haines City, Florida, HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 04-1124 as shown in the records of the City on file in the office of the City Clerk.

WITNESS my hand and the seal of the City of Haines City, Florida, this 15 day of July, 2004.

  
CHERRY L. DOWDY, CITY CLERK