

ORDINANCE 2016-09

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MINNEOLA, FLORIDA, ESTABLISHING PARKS AND RECREATION IMPACT FEES; FINDING A NEED AND ESTABLISHING A PURPOSE FOR PARKS AND RECREATION IMPACT FEES; ESTABLISHING RATES AND PROCEDURES FOR DETERMINING AND REVIEWING SUCH RATES; ESTABLISHING THE CITY OF MINNEOLA PARKS AND RECREATION FACILITIES CAPITAL EXPANSION TRUST FUND; PROVIDING PROCEDURES FOR COLLECTION, USE AND REFUND OF PARKS AND RECREATION IMPACT FEES; PROVIDING FOR NOTICE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Minneola continues to develop and expand by annexation and by increased development of property currently within the municipal boundaries; and

WHEREAS, expansion and increased use and density require expansion of parks and recreation facilities attributable to new construction within the city limits; and

WHEREAS, the City of Minneola has adopted a comprehensive plan which requires the City to plan for and finance the facilities and equipment needed to serve growth and intensified uses; and

WHEREAS, Article VIII, Section 2(b) of the Florida Constitution and Section 166.021 of the Florida Statutes grant the City of Minneola broad home rule powers necessary to carry on municipal government; and

WHEREAS, 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; and

WHEREAS, the City Council of the City of Minneola has received and accepted the Municipal Impact Fee Update prepared by Raftelis Financial Consultants, Inc dated April 13, 2016; and

WHEREAS, the Municipal Impact Fee Update sets forth the calculations and basis for the impact fees associated with the provision of municipal services for parks and recreation; and

WHEREAS, the calculation of the impact fees set forth in the study is based on the most recent and localized data; and

WHEREAS, pursuant to Florida Statute section 163.31801, the City of Minneola has provided notice no less than ninety (90) days before the effective date of this ordinance; and

WHEREAS, the imposition of impact fees is seen as a proper means of requiring growth to help pay for a portion of the capital expenditures necessitated by such growth; and

WHEREAS, in order to equitably distribute the proportionate fair share of new municipal services on new developments within the City of Minneola that create the need for such municipal services, it serves the health, safety and general welfare of the residents of the City of Minneola to enact this ordinance establishing parks and recreation impact fees.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MINNEOLA THAT:

Section 1. Recitals

The recitals set forth above are hereby adopted and incorporated herein by reference.

Section 2. Findings

1. The City of Minneola owns and maintains parks and recreation facilities for the benefit of visitors and residents. These parks and recreation facilities are a necessary and proper function of the City of Minneola.
2. In order to maintain current levels of parks and recreation services, it will be necessary to expand capital facilities and equipment in relation to growth and development within the City of Minneola.
3. The imposition of impact fees has been identified as one of the preferred methods of ensuring that development bears a proportionate share of the cost of parks and recreation capital facilities necessary to accommodate such development. Allocation of a proportionate share of the capital costs for new development promotes and protects the public health, safety and welfare of the citizens of the City of Minneola.
4. Different types of development create different impacts on parks and recreation facilities.
5. The study regarding parks and recreation impact fees prepared by Raftelis Financial Consultants, Inc. dated April 13, 2016 has been submitted to the City Council and discussed at public meetings and sets forth a reasonable methodology and analysis for the determination of the impact of new development on the need for and costs for additional parks and recreation capital facilities and equipment within the City of Minneola.

Section 3. The City of Minneola Code of Ordinances is hereby amended to add Article VI to Chapter 42, as follows:

ARTICLE VI. CITY OF MINNEOLA PARKS AND RECREATION IMPACT FEES

Sec. 42-147. Purpose and Imposition

For the purpose of helping to defray the cost of new or expanded parks and recreation facilities and equipment attributable to new construction within the city limits, impact fees are hereby levied on new construction within the city limits in accordance with the provisions set forth on Exhibit "A" and other provisions of this article.

Sec. 42-148. Applicability

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

- A. Expansion of a residential dwelling unit which does not increase the number of dwelling units in the structure;
- B. Any reconstruction of a destroyed or partially destroyed building, provided that the destruction of the building occurred other than by willful razing or demolition;

- C. Expansion of or additions to existing structures provided that such expansion or addition does not require the issuance of a certificate of occupancy;
- D. Construction under any building permit issued prior to the effective date of this article;
- E. Temporary activities and uses including, but not limited to, temporary construction and temporary housing.

Sec. 42-149. Review of Fee Amounts

Parks and recreation impact fees shall be reviewed and updated at least every five years in accordance with an analysis of projected residential construction within the city limits, the cost of any expanded or new capital facilities and equipment for parks and recreation facilities generated by such construction and the money, other than impact fee revenues, otherwise available to meet such costs. The City Council may annually adjust the established impact fee rates to reflect changes in the costs of relevant capital facilities and equipment. All changes or adjustments to the established impact fee rates shall be made by Ordinance or Resolution after advertising and public hearings and shall apply to construction for which building permits are issued after the effective date of such ordinance.

Sec. 42-150. Rates

- A. Rates. The parks and recreation impact fee rates to be applied to each new development building permit are contained in Exhibit "A" – City of Minneola Parks and Recreation Impact Fee Schedule.
- B. Mixed Uses. If a building permit is requested for mixed uses, then the parks and recreation impact fee shall be determined by using the impact fee schedule contained in Exhibit "A" to calculate the impact fee due for each use specified on the building permit.
- C. Unspecified Use. It is the intent that all development requiring building permit(s) shall pay an appropriate parks and recreation impact fee. If the type of development activity requiring a building permit is not specified in the impact fee schedule contained in Exhibit "A", the City Manager, or his/her designee, shall assign the fee applicable to the most nearly comparable use or uses in the fee schedule contained in Exhibit "A".
- D. Change of Use or Density. In the case of a change of use or density which requires a building permit, the impact fee shall be based on the net increase of the fee, if any, for the new land use as compared with the previous land use as determined by the City Manager or his/her designee.
- E. Appeal. Any owner who disagrees with the determination of the City Manager or his/her designee may appeal such decision to the City Council by filing a written request for appeal within 20 days of the determination by the City Manager or his/her designee.
- F. Credit. The City Council may give credit for part of the parks and recreation impact fee on a project if it determines that a development can demonstrate that it will substantially reduce the project's impact under the city's capital needs for expansion of parks and recreation facilities. The amount credited under this section shall be determined by the city council.

Sec. 42-151. City of Minneola Parks and Recreation Capital Expansion Trust Fund

- A. **CREATION OF FUND.** The City of Minneola Parks and Recreation Capital Expansion Trust Fund is hereby created.

- B. DEPOSIT OF FEES. All parks and recreation impact fees collected by the City of Minneola shall be separately accounted for and shall be deposited only in the City of Minneola Parks and Recreation Capital Expansion Trust Fund.
- C. USE OF FUNDS. Amounts in the City of Minneola Parks and Recreation Capital Expansion Trust Fund shall be used only for the purpose of such fund and for no other purpose. Expenditures may not be used for operations or maintenance. Expenditures from the fund shall be specifically approved by the City Council of the City of Minneola and shall be limited to the expansion or acquisition of capital facilities or equipment made necessary by the new development construction from which the fees were collected or for principal payments (including sinking fund payments) on bonds to expand or acquire such facilities or equipment. Whenever possible, fees are to be used in the order in which they are collected. Before authorizing expenditure from this Trust Fund, the City Council of the City of Minneola shall determine that such expenditure is for capital facilities or equipment to be used for the purpose of the trust fund and meets all other applicable requirements.
- D. MATCHING FUNDS. City may use funds in the Minneola Parks and Recreation Capital Expansion Trust Fund as its share of matching funds for any grant, loan, or similar purposes, and nothing herein shall preclude the use of said funds for matching purposes.

Sec. 42-152. Capital Expansion Plans

The City Council of the City of Minneola shall prepare and maintain a capital expansion plan or master plan for the fund as well as annual compilation of capital projects funded by impact fees. These plans shall be reviewed at least annually during the budget review process.

Sec. 42-153. Time of Payment; Remedies for Nonpayment; Method of Payment.

Parks and recreation impact fees shall be due and payable at the time of issuance by the City Building Department of a building permit or mobile home tie down permit. No building permit or mobile home tie down permit shall be issued until all applicable parks and recreation impact fees have been received by the City of Minneola.

Impact fees shall be paid in cash unless the city council specifically accepts an in-kind contribution of capital facilities for public use. Credit for any in-kind contribution shall be on a fair market value basis as of the date the city council accepts the offer of such contribution.

Sec. 42-154. Refund of Fees Paid

- A. If a building permit or mobile home tie down permit expires prior to the completion of the new development project, then the fee payer, or his heirs, successors or assigns may request a refund, less an administrative fee equal to five percent (5%) of the total fee. Such refund must be requested within sixty (60) days after expiration of the building permit or mobile home permit.
- B. If the parks and recreation impact fees have not been spent or encumbered by the end of the calendar quarter encompassing the six year anniversary of the date the parks and recreation impact fees were paid to the City of Minneola, then upon receipt of a written request for a refund from the current land owner, the City of Minneola will issue a refund, to the current land owner unless the City can establish that it intends to use such impact fees within one year of such application. However, the City shall retain any interest accrued to partially compensate for the administrative expenses associated with the impact fees.

Section 4. **Notice**

The City has published notice of the impact fees provided for in this Ordinance in a newspaper of general circulation no less than ninety (90) days before the effective date of this Ordinance pursuant to Florida Statute section 163.31801.

Section 5. **Severability**

The provisions of this Ordinance are declared to be severable 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 affect 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 6. **Inclusion in the City of Minneola Code**

It is the intention of the City Council of the City of Minneola that the provisions of this Ordinance shall become and be made a part of the City of Minneola Code of Ordinances and that the sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section", "article", or such other appropriate work or phrase to accomplish such intentions.

Section 7. **Effective Date**

This Ordinance shall become effective as of September 5, 2016 pursuant to F.S. 163.31801.

PASSED AND ORDAINED this 21st day of JUNE 2016, by the City Council of the City of Minneola, Florida.



PAT KELLEY, Mayor

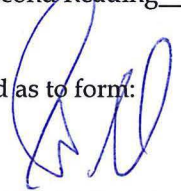
Attest:


Christina Stidham, City Clerk

Passed First Reading 6/17/16

Passed Second Reading _____

Approved as to form:



Scott A. Gerken, City Attorney

Exhibit "A"

Description	Unit	ERU Factor	Parks and Recreation Impact Fee
Single-Family	Dwelling	1.00	\$410.00
Multi-Family	Dwelling	.75	\$307.00
