

STATE OF FLORIDA
COUNTY OF VOLUSIA

I, KARISSA GREEN, Deputy Clerk to the County Council of Volusia County, Florida, do hereby certify that the attached and foregoing Ordinance 2022-36 is a true and correct copy of that certain ordinance as adopted by the County Council of Volusia County, Florida, at its meeting held on December 6, 2022.

WITNESS my hand and official seal at DeLand, Volusia County, Florida, this 12th day of December A.D. 2022.

BY: Karissa Green
KARISSA GREEN
DEPUTY CLERK TO THE COUNTY COUNCIL
OF VOLUSIA COUNTY, FLORIDA



1
2 **ORDINANCE 2022-36**
3

4 AN ORDINANCE OF THE COUNTY COUNCIL OF
5 VOLUSIA COUNTY, FLORIDA, AMENDING THE
6 CODE OF ORDINANCES OF THE COUNTY OF
7 VOLUSIA RELATED TO AN UPDATE OF THE
8 PARKS IMPACT FEE; AMENDING ARTICLE IV OF
9 CHAPTER 70; ADOPTING BY REFERENCE AN
10 IMPACT FEE STUDY BASED ON THE MOST
11 RECENT AND LOCALIZED DATA; UPDATING
12 ADMINSTRATIVE PROCEDURE FOR
13 COMPLIANCE WITH LAW AND FLORIDA
14 STATUTES; AMENDING SECTION 70-111,
15 DEFINITIONS AND RULES OF CONSTRUCTION,
16 TO PROVIDE DEFINITIONS FOR LOCAL PARKS
17 AND DISTRICT AND COASTAL PARKS; AMENDING
18 SECTION 70-112 INTERPRETATION OF ARTICLE;
19 AMENDING SECTION 70-113, AUTHORITY;
20 APPLICABILITY; PURPOSE AND INTENT;
21 AMENDING SECTION 70-114, IMPOSITION BY
22 ADOPTING A REVISED PARKS SERVICE IMPACT
23 FEE SCHEDULE AND ADMINISTRATIVE
24 PROCEDURES; AMENDING SECTION 70-115,
25 PAYMENT; AMENDING SECTION 70-116, TRUST
26 FUNDS; USE OF FUNDS; ADOPTING LEGISLATIVE
27 FINDINGS AND INTENT; AMENDING SECTION 70-
28 117, REFUNDS; AMENDING SECTION 70-118,
29 EXEMPTIONS; AMENDING SECTION 70-119,
30 ADJUSTMENTS TO FEE STRUCTURE; PROVIDING
31 FOR SEVERABILITY; PROVIDING FOR
32 CONFLICTING ORDINANCES; AUTHORIZING
33 INCLUSION IN CODE; AND PROVIDING AN
34 EFFECTIVE DATE.
35
36

37 WHEREAS, the imposition of impacts fees is one of the preferred and recommended
38 forms of ensuring that new development bears a proportionate share of the cost of
39 parks service capital facilities necessitated by new development; and
40

41 WHEREAS, impact fees have become a widespread and acceptable form of funding
42 infrastructure needed fore new growth in Florida; and
43

44 WHEREAS, Section 163.31801, Florida Statutes, "The Florida Impact Fee Act" (the
45 "Act") recognizes that impact fees are an important source of revenue for local
46 governments to use in funding the infrastructure necessitated by new growth; and

47
48 WHEREAS, the Act provides the minimum requirements for the adoption, collection,
49 and administration of impact fees; and
50

51 WHEREAS, the Report titled "Volusia County Impact Fee Study" dated September 30,
52 2022 and prepared by Benesch, as discussed, amended, and supplemented at public
53 workshops and meetings of the County Council of Volusia County, is accepted as the
54 most recent and localized data that sets forth a reasonable methodology and analysis
55 for the determination of the impact of new development on the need for, and the costs
56 of, additional fire rescue, parks, EMS, and thoroughfare road capital facilities in Volusia
57 County; and
58

59 WHEREAS, the Report titled "Volusia County Impact Fee Study Supplement" dated
60 September 30, 2022 and prepared by Benesch, as discussed, amended, and
61 supplemented at public workshops and meetings of the County Council of Volusia
62 County, is accepted as the demonstrated-need study pursuant to Section
63 163.31801(6)(g), Florida Statutes; and
64

65 WHEREAS, on July 27, 2022 and August 17, 2022, Volusia County held publically
66 noticed workshops dedicated to the extraordinary circumstances necessitating the need
67 to exceed the phase-in limitations set forth in Section 163.31801(6)(b), (c), (d), and €,
68 Florida Statutes; and
69

70 WHEREAS, the ordinance is enacted under the general home rule power of local
71 governments imposed under the sovereign power to provide certain services within its
72 jurisdiction, regulate land use, and engage in comprehensive land use and capital
73 improvement planning; the home rule power of a charter county under Article VIII,
74 Section 1(g), of the Florida Constitution, and under the authority in sections 125.01 and
75 163.31801, Florida Statutes.
76

77 BE IT ORDAINED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY,
78 FLORIDA, AS FOLLOWS:
79

80 **(Words in ~~strike-through~~ type are deletions; words in underscore type are**
81 **additions.)**
82

83 **SECTION I: Incorporation of Recitals and Study.** The above recitals are
84 hereby adopted as legislative findings of fact and intent. The Volusia County Impact Fee
85 Study prepared by Benesch dated September 30, 2022, is hereby incorporated by
86 reference to this ordinance.

87 **SECTION II:** Chapter 70, Article IV, Section 70-111, Code of Ordinances,

88 County of Volusia, is amended to read as follows:

89 **Sec. 70-111. Definitions and rules of construction.**

90 (a) For the purposes of administration and enforcement of this article, unless otherwise
91 stated in this article, the following rules of construction shall apply to the text of this
92 article:

93 (1) In case of any difference of meaning or implication between the text of this
94 article and any caption, illustration, summary table, or illustrative table, the text
95 shall control.

96 (2) The word "shall" is always mandatory and not discretionary; the word "may" is
97 permissive.

98 (3) Words used in the present tense shall include the future; and words in the
99 singular number shall include the plural, and the plural the singular, unless the
100 context clearly indicates the contrary.

101 (4) The phrase "used for" includes "arranged for," "designed for," "maintained for"
102 or "occupied for."

103 (5) The word "person" includes an individual, a corporation, a partnership, a
104 governmental entity or agency, an incorporated association or any other similar
105 entity.

106 (6) The word "includes" shall not limit a term to the specific example but is
107 intended to extend its meaning to all other instances or circumstances of a like
108 kind or character.

109 (b) The following words, terms and phrases, when used in this article, shall have the
110 meanings ascribed to them in this section, except where the context clearly
111 indicates a different meaning. Webster's New Collegiate Dictionary (G & C Merriam
112 Co., 10th ed. 1993 or any subsequent edition) shall be used for the definition of any
113 words not defined in this section.

114 *Applicant* means any person applying for or who has been granted a permit to
115 proceed with a project.

116 *Building* means any structure with an impervious roof built for the support,
117 shelter or enclosure of persons, animals, chattels or property of any kind which has
118 enclosing walls for 50 percent or more of its perimeter. The term "building" shall be
119 construed as if followed by the words "or part thereof."

120 *Building permit* means the permit required by section 1054.4 of the ~~Standard~~
121 ~~Building Code, Southern Building Code Congress~~ Florida Building Code, as adopted
122 by the county.

123 *Certificate of occupancy* means the official document or permit issued by a
124 municipality or the county evidencing the completion of construction of a building in

125 accordance with all applicable codes and its legal entitlement to permanent
126 occupancy and use.

127 *Collecting agency* means the county.

128 *County manager* means the county manager and/or designee.

129 *District park and local park fee and fee* means the fee for district parks and
130 coastal parks imposed county-wide and required to be paid in accordance with this
131 article.

132 *Dwelling* means one or more rooms in a building forming a separate and
133 independent housekeeping establishment, arranged, designed, or intended to be
134 used or occupied by one family, and having no enclosed space or cooking, or
135 sanitary facilities in common with any other dwelling unit with no ingress or egress
136 through any other dwelling unit, and containing permanent provisions for sleeping
137 facilities, sanitary facilities and not more than one kitchen facility.

138 *Feepayer* means that person or entity who pays a park impact fee or his/her
139 successor in interest with the right or entitlement to any refund of previously paid
140 development impact fees which are required by this article and which has been
141 expressly transferred or assigned to the successor in interest. In the absence of an
142 express transfer or assignment or entitlement to any refund or previously paid
143 development impact fees, the right or entitlement shall be deemed "not to run with
144 the land."

145 *Land development activity* means the carrying out of any residential building
146 activity, or the making of any material change in the use or appearance of any
147 structure or land.

148 *Level of service* The Volusia County Comprehensive Plan has set an adopted
149 level of service standard in the recreation and open space element, based on
150 acreage, as well as minimum facility standards based on park type. The calculation
151 of recreation impact fees shall be based upon the Volusia County Comprehensive
152 Plan's Recreation and Open Space Elements Adopted Level(s) of Servicecurrent
153 achieved level of service measured by the available inventory of each park type.

154 *Local park fee* means the fee for local parks imposed in the unincorporated
155 areas of the County.

156 *Park fee or fee* means the district park fee and local park fee required to be
157 paid in accordance with this article.

158 *Total park costs* includes, but not limited to, preliminary engineering,
159 engineering design studies, land surveys, property acquisition, engineering,
160 permitting and construction of all the necessary features for park projects, including
161 but not limited to layout of walking paths, construction of ballfields, picnic pavilions,
162 installation of equipment for children's play areas, irrigation systems, lighting
163 systems, fencing, bleachers, roads, parking facilities, restrooms, concession and
164 community buildings, manager quarters and storage buildings.

166 **SECTION III:** Chapter 70, Article IV, Section 70-112, Code of Ordinances,

167 County of Volusia, is amended to read as follows:

168 **Sec. 70-112. Interpretation of article.**

- 169 (a) *Interpretation.* The provisions of this article shall be liberally construed to effectively
170 carry out its purposes in the interest of public health, safety, welfare and
171 convenience.
- 172 (b) *Methods of enforcement.* The county or municipality shall withhold any certificate of
173 occupancy or any final inspection approval for construction applicable to this article
174 until the required fee has been paid.
- 175 (c) *Building permits not to be issued to persons failing to pay fee.* No building permit
176 shall be issued by the county or municipality to any person who, while required by
177 this article to pay a district park and local park impact fee, and has failed to pay
178 such fee.
- 179 (d) *Effect on conflicting regulations.* If any provision of this article is in conflict with a
180 provision of any other county ordinance, resolution or regulation, then this article
181 shall prevail to the extent of such conflict.

183 **SECTION IV:** Chapter 70, Article II, Section 70-113, Code of Ordinances, County

184 of Volusia, is amended to read as follows:

185 **Sec. 70-113. Authority; applicability; purpose and intent.**

- 186 (a) *Authority.* This article is adopted pursuant to article VIII, section 1(g), Florida
187 Constitution; F.S. chs. 125 and 163; and the County Home Rule Charter, Laws of
188 Fla. ch. 70-966, as amended.
- 189 (b) *Applicability.* This article shall apply throughout the unincorporated area of the
190 county for the local park fee and throughout the unincorporated area of the county
191 and in the incorporated municipalities for the district park fee.
- 192 (c) *Purpose and intent.*
- 193 (1) The purpose of this article is to regulate the use and development of land as to
194 ensure that new residential development bears a proportionate share of the
195 reasonably anticipated costs of new district and local parks created by the new
196 development activity.
- 197 (2) This article is intended to implement and be consistent with the county
198 comprehensive plan.

SECTION V: Chapter 70, Article III, Section 70-114, Code of Ordinances, County

of Volusia, is amended to read as follows:

Sec. 70-114. Imposition.

(a) Applicability of fee.

(1) Any person who makes or causes the making of an improvement to land which requires the issuance of a building permit for a residential structure, or any person who changes the use of any structure for residential purposes, shall be required to pay a district park fee and applicable local park impact fee in the manner and amount set forth in this article. In the event the impact fee rate for a particular land use is changed subsequent to the applicationissuance of a building permit and before the issuance of a certificate of occupancy, the impact fee shall be the amount in effect on the date payment~~the application for~~ a current or pending building permit is received. The impact fee rate for a void, expired, noncurrent, or denied building permit will be the changed impact fee.

(2) No person shall commence or continue construction or allow commencement or continuation of construction of an improvement for which the fee imposed by this article is applicable without first having obtained the required building permit and paid the proper impact fee imposed by this article. No person shall change the use or allow a change in use of any structure where the fee imposed by this article is applicable without having paid the proper district park fee and applicable local park impact fee imposed by this article.

(b) *Payment required prior to issuance of a certificate of occupancy, or occupancy of the building, local business tax or use permit.* No county or municipal residential construction certificate of occupancy, or occupancy of the building, for which a complete application is submitted after July 1, 1990, shall be issued unless and until the district park fee and applicable local parks ~~impact~~-fee required by this article has been paid. The obligation of a person to pay the fee imposed by this article shall not be extinguished by the inadvertent failure of the county to collect the fee at the time required.

(c) *Formula development.* The following formulas for the district, coastal, and local parks in Chapter 4 of the Volusia County Impact Fee Study prepared by Benesch, dated September 30, 2022, is adopted and incorporated by reference into this ordinance and shall be used to determine the district park fees and applicable local parks impact-fee per unit of development. All terms and definitions in that study used for the calculation of the park fees are adopted for purpose of this formula.

(d) *Fee Schedule.* The following fee schedule has been prepared based on the formula and data presented in the Volusia County Impact Fee Study prepared by Benesch dated September 30, 2022,

(1) Local Parks

| ITE Land Use | Land Use | Impact Unit | Calculated |
|--------------|----------|-------------|------------|
|--------------|----------|-------------|------------|

| <u>Cate.</u> | | | Impact Fee (Local Parks) |
|--------------------|-----------------------------|-----------|-------------------------------------|
| Residential | | | |
| <u>210/220/240</u> | <u>1,200 sf & Under</u> | <u>du</u> | <u>\$316</u> |
| | <u>1,201 to 1,700 sf</u> | <u>du</u> | <u>\$362</u> |
| | <u>1,701 to 2,200 sf</u> | <u>du</u> | <u>\$384</u> |
| | <u>2,201 to 3,000 sf</u> | <u>du</u> | <u>\$403</u> |
| | <u>3,001 sf & Over</u> | <u>du</u> | <u>\$442</u> |

239

240 (2) District/Coastal Parks

| <u>ITE Land Use Cate.</u> | <u>Land Use</u> | <u>Impact Unit</u> | <u>Calculated Impact Fee (District/ Coastal Parks)</u> |
|-------------------------------|-----------------------------|------------------------|--|
| Residential | | | |
| <u>210/220/240</u> | <u>1,200 sf & Under</u> | <u>du</u> | <u>\$527</u> |
| | <u>1,201 to 1,700 sf</u> | <u>du</u> | <u>\$606</u> |
| | <u>1,701 to 2,200 sf</u> | <u>du</u> | <u>\$644</u> |
| | <u>2,201 to 3,000 sf</u> | <u>du</u> | <u>\$675</u> |
| | <u>3,001 sf & Over</u> | <u>du</u> | <u>\$742</u> |

241

242

243 (e) Mixed use. If a building permit is requested for a building with mixed uses, then the
 244 fee shall be determined through using the schedule by apportioning the space
 245 committed to dwelling units. In the case of a change of use, redevelopment or
 246 modification of an existing use requiring the issuance of a building permit, the
 247 impact fee shall be based upon the net increase in the impact fee for the new as
 248 compared to the previous use.

249

250 (f) Expansion. In the case of an expansion of an existing use on the same lot or an
 251 adjoining lot (which may be intersected by an easement or right-of-way) requiring
 252 the issuance of a building permit, the impact fee will be based upon the net
 253 increase in the impact fee for the new as compared to the previous use.

LOCAL PARKS IMPACT FEE FORMULA

| | | |
|---------|-------------------------------|------------------------|
| | Standard No. Acres | $= (A/1,000) \times 2$ |
| Local | Total Park Costs/Acre | $= C + D$ |
| Parks = | Total Park Costs | $= B \times E$ |
| Impact | Total Dwelling Units | $= A/2.3$ |
| Fee | Cost/Dwelling Unit | $= F/G$ |
| | Total Fee/Dwelling Unit | $= H \times 1.03 = J$ |
| | | |

| A | B | C | D | E | F | G | H | I | J |
|------------|--|-----------------------------|-------------------------------------|---------------------|------------------------|----------------------------|------------------------------|-----------------------|--------------------------------------|
| Population | Standard-2 Acres per 1,000 Population | Cost of Land per Acre | Cost of Improvements per Acre | Total Cost/ Acre | Total Cost of Parks | Total Dwelling Units | Cost per Dwelling Unit | Administrative Fee | Total Fee per Dwelling Unit |
| | | | | | | | | | |
| 107,540 | 215.08 | \$26,362.70 | \$17,090.56 | \$43,453.25 | \$9,345,900.20 | 46,756 | \$199.88 | 3% | \$205.88 |

DISTRICT PARKS IMPACT FEE FORMULA

| | | |
|----------|-------------------------------|------------------------|
| | Standard No. Acres | $= (A/1,000) \times 5$ |
| District | Total Park Costs/Acre | $= C + D$ |
| Parks = | Total Park Costs | $= B \times E$ |
| Impact | Total No. Dwelling Units | $= A/2.3$ |
| Fee | Cost/Dwelling Unit | $= F/G$ |
| | Fee/Dwelling Unit | $= H \times I = J$ |
| | Total Fee/Dwelling Unit | $= J \times 1.03 = L$ |
| | | |

| A | B | C | D | E | F | G | H | I | J | K | L |
|---|---|---------------------------------------|--|---------------------------------|------------------------|----------------------------|------------------------------|--|--------------------------------|-------------------------|--------------------------------------|
| Population (Seasonal plus Permanent) | Standard-5 Acre-per 1,000 Population | Land Purchase Costs per-Acre | Land Improvement Costs per-Acre | Total Park-Costs per-Acre | Total Park Costs | Total Dwelling Units | Cost-per Dwelling Unit | Bond-Credit per Dwelling Unit | Fee per Dwelling Unit | Administra- tive-Fee | Total-Fee per Dwelling Unit |
| | | | | | | | | | | | |
| | | | | | | | | | | | |
| 123,993 | 619.96 | \$9,677.24 | \$19,879.64 | \$29,556.88 | \$18,324,271.00 | 53,910 | \$339.90 | \$63.01 | \$276.89 | 3% | \$285.20 |

PARK SUMMARY

Local Parks

| Zone | Population Estimate per Zone* | Standard Number of Acres per 1,000 Population | Number Park Acres Existing | Number School Acres Existing | Total Acres Existing | Total Acres per Zone Needed | Over or Under |
|-------|-------------------------------|---|----------------------------|------------------------------|----------------------|-----------------------------|---------------|
| 1 | 57,026 | 2 | 103.70 | 41.0 | 144.05 | 114.05 | 30.65 |
| 2 | 12,815 | 2 | 22.80 | 34.0 | 56.8 | 25.63 | 31.17 |
| 3* | 30,188 | 2 | 53.00 | 36.0 | 89.0 | 60.38 | 28.62 |
| 4 | 7,591 | 2 | 37.50 | 101.0 | 138.5 | 15.02 | 123.48 |
| | | | | | | | |
| Total | 107,540 | | 217.00 | 212.0 | 429.0 | 215.08 | 213.92 |

*Population is based on the U.S. Census as of April 1, 2000.

District Parks

| Population Estimate | Standard Number Acres per 1,000 Population | Number Park Acres Existing | Total Acres Needed | Over or Under |
|---------------------|--|----------------------------|--------------------|----------------|
| 123,993 | 5 | 892.50 | 619.96 | 272.54 surplus |

Formula Factors:

Total Dwelling Units = Total Population divided by 2.3 persons per dwelling

1. Cost of land per acre = Average cost of land per acre for the type of park specified.

2. Cost of improvements = The average cost to provide park amenities according to the minimum standards in the comprehensive plan.

3. Cost per dwelling unit = The cost per dwelling unit based on the total cost of a minimum equipped park.

4. District park population = The number of full-time residents and seasonal residents in the unincorporated area of the county.

5. Environmental bond credit = Credits due from lands purchased by the bond fund and developed as district parks.

6. Local park population = The number of permanent residents in the unincorporated area.

7.—Standard acres per dwelling unit = The number of acres required per 1,000 population as set forth in the comprehensive plan.

8.—The preceding inventory of local and district parks provide basic data used in the formula to calculate the park impact fee.

9.—The park summary includes the comprehensive plan park standards.

Credits for debt service = District parks have credit for lands acquired with bond funds. The present value of these future payments is calculated and credited against impact fee charges.

(d) *Credits for donations.* The donation of land, facilities and equipment may qualify for credits, if consistent with the county's plans and standards for park and recreation for location, size and apparatus specifications, and upon approval by the county manager. The value of the donations or improvements shall be determined by the county parks and recreation director and approved by the growth management and environmental service center director. Any contribution shall be provided a credit on a dollar-for-dollar basis. Credits will be deducted from the park impact fees listed in the park impact fee schedule in effect at the time the park impact fee credits are created and be used at the time park impact fees are to be paid. The creation date is the date the instruments conveying legal title to the land or improvements given in exchange for the credits are recorded by the clerk of court. Credits created under this section must be used within ten (10) years of the final certificate of occupancy for the approved development phase or 20 years of the date the credits are created, whichever is sooner. Credits not used within the time frame set forth in this subsection will expire. Credits granted under an agreement approved by the County Council will be governed by the terms of such agreement.

(e) *Temporary suspension of residential district park and local park impact fees.*

(1) The imposition of residential district park and local park impact fees shall be temporarily suspended for all residential building permits for which an application has been date stamped received on or after July 1, 2011, according to the following schedule:

a. All residential district park and local park impact fees, as established by this article, shall be suspended for a period beginning on July 1, 2011 and extending through June 30, 2013.

b. Two thirds of all residential district park and local park impact fees, as established by this article, shall be suspended for a period beginning on July 1, 2013 and extending through June 30, 2014.

c. One third of all of residential district park and local park impact fees, as established by this article, shall be suspended for a period beginning on July 1, 2014 and extending through June 30, 2015.

(2) *Area of applicability.* The temporary suspension of residential district park and local park impact fees established by this article shall only apply in the areas within the following legal descriptions, as graphically depicted on the

"Residential Impact Fee Temporary Suspension Area Map", dated August 15, 2011:

a. *East zone.* Those lands lying within the following described boundary:

—Beginning at the northeasterly corner of Section 32, Township 12 South, Range 32 East, Volusia County, Florida, said corner being the northeast corner of described boundary for said Volusia County, thence run southerly, along the Atlantic coastline and said county boundary, to the intersection with the southerly line of the corporate boundary of the City of New Smyrna Beach, Florida; thence run westerly, along said corporate boundary line, to its intersection with the westerly line of the Indian River; thence run southerly, along said westerly line of river, to its intersection with the southerly corporate boundary of the City of Oak Hill, Florida; thence run westerly, along said corporate boundary, to the westerly corporate boundary line of said City of Oak Hill; thence run northerly, along said corporate boundary, to the northerly corporate boundary of said City of Oak Hill; thence run easterly, along said corporate boundary to its intersection with the westerly corporate boundary of the City of Edgewater, Florida; thence run northerly, and westerly, along said corporate boundary line, to its intersection with the centerline of Interstate 95; thence run northerly, along said centerline, to its intersection with the northerly right-of-way line of Pioneer Trail, said right-of-way line also being the southerly corporate boundary of the City of Port Orange, Florida; thence run westerly, along said corporate boundary, to the westerly corporate boundary of said City of Port Orange; thence run northerly, along said corporate boundary, to its intersection with the aforementioned centerline of Interstate 95; thence run northerly, along said centerline, to its intersection with the centerline of State Road 40; thence run westerly, along said centerline, to its intersection with the westerly corporate boundary of the City of Ormond Beach, Florida; thence run northerly, along said corporate boundary, to the northerly boundary of Volusia County, Florida; thence follow said northerly boundary line to coastline of the Atlantic Ocean and the point of beginning.

b. *Northwest zone.*

—Those lands, including unincorporated areas, lying within the exterior Corporate Limits of the City of Pierson, Florida.

c. *Southwest zone.* Those lands lying within the following described boundary:

—Beginning at the intersection of the centerline of State Road 415 and the centerline of the St. Johns River, said centerline of river also being the boundary line for Volusia County, Florida; thence run westerly and northerly, along said county boundary line, to its intersection with the northerly corporate boundary of the City of DeBary, Florida; thence run easterly, along said corporate boundary, to its intersection with the westerly corporate boundary of the City of Orange City, Florida; thence run northerly, along said corporate boundary, to its intersection with the centerline of State Road 472, thence run easterly, along said centerline, to

its intersection with the centerline of State Road 15/600 (U.S. 17/92);
thence run northerly, along said centerline, to its intersection with the
corporate boundary of the City of DeLand, Florida; thence run westerly
and northerly, following said corporate boundary, to its intersection with
the centerline of State Road 15-A; thence run northerly, along said
centerline, to its intersection with the centerline of State Road 44; thence
run westerly, along said centerline, to its intersection with Hazen Road;
thence run northerly, along said Hazen Road, to its intersection with the
centerline of Plymouth Avenue; thence continue running northerly, along
said Hazen Road, to its intersection with the aforementioned corporate
boundary of the City of DeLand; thence run easterly, along said corporate
boundary, to its intersection with the aforementioned centerline of State
Road 15-A; thence run northerly, along said centerline, to its intersection
with the aforementioned corporate boundary of the City of DeLand; thence
run westerly and northerly, along said corporate boundary, to its
intersection with Greens Dairy Road; thence run easterly, continuing along
corporate boundary, to its intersection with the centerline of State Road
15-A; thence run northerly, along said centerline to its intersection with
State Road 15 (U.S. 17); thence, from said intersection, run northeasterly,
along the centerline of County Road 15-A, to its intersection with State
Road 11; thence run southerly, along State Road 11, to its intersection
with the northerly corporate boundary of the aforementioned City of
DeLand, thence run easterly, along said corporate boundary, to its
intersection with Marsh Road; thence run southerly, along said Marsh
Road, to its intersection with the aforesaid corporate boundary of the City
of DeLand; thence run easterly, along said corporate boundary, to the
easterly line thereof; thence run southerly, along said easterly line and the
southerly projection thereof, to its intersection with the centerline of State
Road 600 (U.S. 92); thence run easterly, along said centerline, to its
intersection with the centerline of Kepler Road; thence run southerly,
along said centerline, to its intersection with the centerline of
aforementioned State Road 44; thence run easterly, along said centerline,
to its intersection with County Road 4139; thence run southerly, along said
county road, to its intersection with the aforementioned corporate
boundary of the City of DeLand; thence run easterly, along said corporate
boundary, to Interstate 4; thence southerly, along said Interstate 4, to its
intersection with Summit Avenue (C.R. 4139); thence run southerly, along
said Summit Avenue, to its intersection with the corporate boundary of the
City of Lake Helen, Florida; thence run easterly, along said corporate
boundary, to the easterly line thereof; thence run southerly, along said
easterly boundary, to its intersection with Lake Helen/Osteen Road;
thence run southerly, along said road, to its intersection with corporate
boundary of the City of Deltona, Florida; thence run easterly to the eastern
corporate boundary of said City of Deltona; thence run southerly, along
said eastern boundary and its southerly projection thereof, to its
intersection with the centerline of State Road 415; thence run southerly;

1 along said centerline, to its intersection with the centerline of the aforesaid
2 St. Johns River and the point of beginning.

3 d. ~~Recorded subdivisions.~~ Those lands lying within the boundaries of the
4 following recorded subdivisions:
5 ~~Ridgewood Crossings and Pioneer Trail Reserve.~~
6

7 **SECTION VI:** Chapter 70, Article IV, Section 70-115, Code of Ordinances,
8 County of Volusia, is amended to read as follows:

9 **Sec. 70-115. Payment.**

10 (a) *Time of payment.*

- 11 (1) The person applying for the issuance of a certificate of occupancy shall pay the
12 district parks fee and applicable local parks impact fees prior to the issuance of
13 said certificate of occupancy or the occupancy of the building. In the
14 unincorporated area, ~~T~~the county shall issue a building permit that shall set
15 forth the amount of the impact fee due.
- 16 (2) The obligation for payment of the impact fee shall run with the land. However,
17 this section shall not be construed to relieve an applicant of responsibility or
18 liability for payment of the impact fees imposed by this article.
- 19 (3) In the event the impact fee is not paid prior to the issuance of a certificate of
20 occupancy or the occupancy of the building for the affected impact
21 construction, the county may collect the impact fee, together with interest at the
22 rate fixed by law for judgments, an administrative penalty of five percent per
23 month (to a maximum of 25 percent of all fees unpaid at the time they were
24 due according to the terms of this article), the costs of such collection and a
25 reasonable attorney's fee. Interest and penalties shall be remitted for addition
26 to the trust fund, and the recovered costs and fees for collection shall be
27 retained by or remitted to the government incurring the expense of collection.
28 The county attorney or duly authorized representative may execute, serve
29 upon the owner by certified mail and record a notice of nonpayment in the
30 official records of the county, which shall contain the legal description of the
31 property and the amount of the impact fee liability. Said notice shall thereupon
32 operate as a lien against such property for the amount of the impact fee,
33 together with interest, penalties, and the costs and fees for collection.
- 34 (4) All fees due under this article shall become a lien at the time of the issuance of
35 the building permit or in the case of a change of use on the issuance of a local
36 business tax receipt, as the case may be, such fees shall be due, and shall
37 remain a lien, coequal with the lien of all state, district, county and municipal
38 taxes, superior in dignity to all other liens, titles and claims, until paid. Such lien
39 shall be upon the land on which an improvement is made requiring the

1 payment of fees and shall be for the amount of the fee required, as well as for
2 all penalties and interest due under the provisions of this article.

3 (b) *Method of payment.* Payment of district park and local park impact fees shall be
4 made to the County of Volusia.

5 (c) *Disposition of funds.* All funds collected shall be properly identified as district parks
6 impact fee funds or local parks impact fee funds and promptly transferred for
7 deposit into the appropriate trust fund. Funds are to be held in separate accounts
8 as determined in subsection 70-116(b) and used solely for the purposes specified
9 in this article.

10
11 **SECTION VII:** Chapter 70, Article IV, Section 70-116, Code of Ordinances,
12 County of Volusia, is amended to read as follows:

13 **Sec. 70-116. Trust funds; use of funds.**

14 (a) Trust funds. There are hereby established a district park trust fund and four local
15 park impact fee trust funds according to the area where collected as identified in
16 Exhibit A following this Article s and are incorporated in this article by reference.
17 Subsequent to the adoption of the ordinance from which this article is derived,
18 should any parcel or area of land located within the unincorporated area of Volusia
19 County be annexed into a municipality which, at the initial effective date of the
20 ordinance from which this article is derived, was located within an adjacent
21 unincorporated area of Volusia County, the boundaries of the municipality shall be
22 deemed amended as of the date of annexation so as to include the land annexed
23 within the municipality. Such amendment shall be for the purposes of this article
24 only and shall not affect any prior payment of fees or expenditure of funds
25 attributable to the annexed property.

26 (b) Funds identified as district park impact fees shall be deposited into a single district
27 park trust account with expenditures county-wide to support the stated level of
28 service. Local park impact fee funds will be deposited into one of four specific local
29 park impact fee trust funds according to the area where collected as identified in
30 exhibit A following this article. Expenditures will be within these four zones unless a
31 local park project would provide substantial benefit to other zones.

32 (c) The county manager shall present to the county council the proposed capital
33 improvement program of the capital improvement element of the comprehensive
34 plan for district park and local park facilities, assigning funds, including any accrued
35 interest, from the trust funds to specific improvements and related expenses.
36 Monies, including any accrued interest, not assigned in any fiscal period shall be
37 retained in the district park and local park impact fee trust funds until the next fiscal
38 period except as provided by the refund provisions of this article. Funds shall be
39 deemed expended in the order in which they are collected.

(d) The county shall add three percent to the impact fee calculated for district and local parks. These funds will be retained in the general fund to offset the cost of administering this article.

SECTION VIII: Chapter 70, Article IV, Section 70-117, Code of Ordinances, County of Volusia, is amended to read as follows:

Sec. 70-117. Refunds.

(a) If a building permit expires and no construction has been commenced, then the feepayer shall be entitled to a refund of the impact fee paid as a condition for its issuance except that the county shall retain a portion of the funds to offset the costs of refund, based on the following schedule:

| Fee Paid (Excluding Administrative Fee) | Retained Percent |
|---|---|
| \$5,000.00 or less | 3% |
| \$5,000.01 plus | 3% of the first \$5,000.00 and 1% of the remainder above \$5,000.00 |

(b) Any funds not expended or encumbered by the end of the calendar quarter immediately following ten (10) five years from the date the district park and local park impact fees were paid shall, upon application of the feepayer within 180 days of that date, be returned to such feepayer with interest at the rate of six percent per annum.

SECTION IX: Chapter 70, Article IV, Section 70-118, Code of Ordinances, County of Volusia, is amended to read as follows:

Sec. 70-118. Exemptions.

The following activities shall be exempted from payment of the district parks and local parks impact fee:

- (1) Alterations or expansions of an existing building where no additional units are created over that of the existing use or no additional square footage is created which places the building in another category.
- (2) The replacement of a building or structure with a new building or structure with an equal number of dwelling units and equal square footage.

SECTION X: Chapter 70, Article IV, Section 70-119, Code of Ordinances, County of Volusia, is amended to read as follows:

Sec. 70-119. Adjustments to fee structure.

~~(a) Annual adjustment. The park impact fee formulas and schedules set out in subsection 70-114(c) shall be adjusted annually. The total value of the assets will be adjusted based on annual percentage changes in the Consumer Price Index (CPI). Annual changes shall be effective on May 1 of each year, based upon the index change for the 12 months ending on December 31 of the previous year.~~

(a) *Review.* The district parks impact fee and local parks impact fee shall be reviewed by county council no less than once every four (4) six years. The review shall consider the adequacy of the service to meet the needs of new demands created by new developments. The purpose of this review is to analyze the effects of inflation on the actual acquisition and operation of the district parks and local parks. This review will consider any changes have occurred in county revenue sources and their effect upon the funding of the district parks and local parks.

SECTION XI: SEVERABILITY - Should any word, phrase, sentence, subsection or section be held by a court of competent jurisdiction to be illegal, void, unenforceable, or unconstitutional, then that word, phrase, sentence, subsection or section so held shall be severed from this ordinance and all other words, phrases, sentences, subsections, or sections shall remain in full force and effect.

SECTION XII: CONFLICTING ORDINANCES - All ordinances, or part thereof, in conflict herewith are, to the extent of such conflict, repealed.

SECTION XIII: AUTHORIZING INCLUSION IN CODE. The provisions of this ordinance shall be included and incorporated into the Code of Ordinances of the County of Volusia, as additions or amendments thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

1 **SECTION XIV: EFFECTIVE DATE.** This ordinance shall take effect on March 6,


2 2023 upon filing a certified copy with the Department of State.

3 ADOPTED BY A TWO-THIRDS VOTE OF THE COUNTY COUNCIL OF
4 VOLUSIA COUNTY, FLORIDA, IN OPEN MEETING DULY ASSEMBLED IN THE
5 COUNTY COUNCIL CHAMBERS AT THE THOMAS C. KELLY ADMINISTRATION
6 CENTER, 123 WEST INDIANA AVENUE, DELAND, FLORIDA, THIS 6TH DAY OF
7 DECEMBER A.D., 2022.

8
9
10
11 ATTEST:

COUNTY COUNCIL
VOLUSIA COUNTY, FLORIDA

12
13
14
15
16 George Recktenwald
17 County Manager

For 
Jeffrey S. Brower
County Chair

