ORDINANCE NO. 3146

AN ORDINANCE OF THE CITY OF APOPKA, ORANGE COUNTY, FLORIDA, RELATING TO PARKS AND RECREATION IMPACT FEES; ADOPTING AN UPDATED PARKS AND RECREATION IMPACT FEE STUDY BASED ON CURRENT AND PROJECTED GROWTH; PROVIDING INTENT AND PURPOSE; PROVIDING FOR EXEMPTIONS, CREDITS, AND OTHER MATTERS PERTINENT TO PARKS AND RECREATION IMPACT FEES; PROVIDING FOR FUTURE UPDATES BY RESOLUTION; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Mayor and City Council of the City of Apopka have studied the necessity for and implications of the adoption of an ordinance updating parks and recreation impact fees and have retained a professional consulting firm to prepare a study relating to parks and recreation impact fees (the "Study") to determine the proportionate demand that new residential development generates for additional parks and recreation facilities; and

WHEREAS, the Study has been presented to, and reviewed by, the Mayor and City Council of the City of Apopka, and it has been determined (1) that parks and recreation impact fees are necessary to offset the costs associated with meeting future demands for the City's parks and recreation facilities pursuant to the projections set forth in the Study; (2) that the parks and recreation impact fees bear a reasonable relationship to the burden imposed upon the City to provide park facilities to new City residents; (3) that parks and recreation impact fee revenues will provide a direct benefit to such new City residents reasonably related to the fees assessed; (4) that an essential nexus exists between projected new development and the need for additional parks and recreation impact fees and the benefits that accrue to new development paying the fees; and (5) that the amount of the parks and recreation impact fees are roughly proportional to the pro rata share of the additional parks and recreation facilities needed to serve new development; and

WHEREAS, the costs of real property for use in parks and recreation facilities development and the costs of various facilities and equipment have been used by the City' s consultant in developing a development impact cost per land use type as set forth in the Study; and

WHEREAS, the decisions of the Mayor and City Council as set forth herein are reasonable and prudent steps pertaining to sound growth management which have been taken for the benefit of the citizens of the City, both present and future; and

WHEREAS, the City is projected to significantly grow in population and further economically develop in the future; and

WHEREAS, this Ordinance contains an administrative framework to ensure that the benefit of parks and recreation facilities funded with parks and recreation impact fees will accrue proportionately to new development paying the fees; and

WHEREAS, Section 163.3202(3), Florida Statutes, encourages the use of innovative land use regulations and impact fees by local governments to manage growth and to provide the necessary public facilities and for the imposition by local governments of impact fees on development to fund the capital cost of parks and recreation facilities necessitated by such development; and

WHEREAS, under its home rule powers and pursuant to § 163.31801, Florida Statutes and judicially created law, the City of Apopka may impose impact fees to ensure the well-being of its citizens; and

WHEREAS, requiring future growth to contribute its fair share of the costs necessary to fund required capital improvements and additions is an integral and vital pan of the regulatory plan of growth management in the City and is a practice consistent with sound and generally accepted growth management, fiscal and public administration practices and principles; and

WHEREAS, this ordinance repeals and replaces Ordinance 2544 adopted on January 18, 2017.

Now, THEREFORE, BE IT ORDAINED by the City Council of the City of Apopka, Florida, as follows:

SECTION 1. Chapter 26, Article VII of the Apopka Code of Ordinances entitled "Parks and Recreation Impact Fees" is hereby amended and replaced as follows:

ARTICLE VII. PARKS AND RECREATION IMPACT FEES

Sec. 26-180. Intent and Purpose.

(a) The purpose of this article is to require payment of parks and recreation impact fees by those who engage in parks and recreation impact construction and to provide for the cost of capital improvements to the City which are required to accommodate such growth. This article shall not be construed to permit the collection of parks and recreation impact fees greater than the amount reasonably anticipated to offset the demand on the city generated by such applicable parks and recreation impact construction.

(b) The revision and re-imposition of a parks and recreation impact fee is to provide a source of revenue to fund the construction or improvement of city parks and recreation necessitated by growth.

(c) City council hereby ratifies, adopts, and incorporates herein the "Municipal Impact Fee Study" dated November 4, 2025, prepared by Raftelis Financial Consultants, Inc. as the city's parks and recreation impact fee study, particularly as the report relates to the allocation of a fair share of costs of public facilities required to provide parks and recreation necessary to serve new development in the city.

(d) All impact fees established herein are calculated based on the city's most recent and localized data. Any future amendment to the amount of these impact fees shall be based on the city's most recent and localized data available at the time of amendment.

Sec. 12-181. Definitions.

The following definitions shall apply to this Article:

Parks and Recreation Impact Construction shall mean any residential improvement to land which shall generate the need for city parks and recreation.

Residential includes single family residences, condominiums, planned unit developments, multifamily, retirement communities, and mobile homes.

Sec. 12-182. Imposition.

(a) Any person who seeks to develop real property located in the city by applying for a building permit, development order, or other permit for parks and recreation impact construction within the city shall pay the following parks and recreation impact fees which are based on the city's most recent and localized data:

Parks and Recreation Impact Fee Schedule

TABLE INSET:

Development Type	**Impact Fee Unit**	**Impact Fee**
Residential:		
Single-family dwelling	Dwelling Unit	$1,358.00
Multi-family dwelling	Dwelling Unit	$1,086.00

(b) The city may charge an administrative charge for the collection of impact fees, however, in no event shall such administrative charge exceed the actual cost incurred by the city for collection of the impact fees. If the option to establish an administrative charge is exercised, then such administrative charge shall be set by resolution of City Council.

(c) No less than 90 days' notice shall be provided to the public before the effective date of any amendment to this ordinance which imposes a new or increased impact fee.

(d) Any amendment to the amounts of the impact fees established herein shall be calculated based on the city's most recent and localized data.

Sec. 12-183. Impact Fee Trust Account and Use of Monies.

(a) There is established a trust account for the parks and recreation impact fees, designated as the "parks and recreation impact fee trust account," which shall continue to be maintained separate and apart from all other accounts of the city.

(b) The funds collected by reason of establishment of the parks and recreation impact fees in accordance with this Article shall be used solely for the purpose of acquisition of facilities and equipment determined to be needed to provide parks for new development within the City. Said funds shall not be used to maintain or repair existing park facilities or equipment or to acquire facilities or equipment to serve existing development.

(c) The City shall spend funds on a first-in, first-out basis.

Sec. 12-184. Accounting Report and Periodic Adjustments.

The city administrator or designee shall provide an accounting report annually to the city council indicating the amount of fees collected under this article and the amount of fees distributed. The city council shall review the report of the city administrator or designee. The purpose of this review is to analyze use and availability of funds, as well as the effects of inflation on the actual costs of capital improvements, and to review and revise, if necessary, the fee charged new development to ensure it will not exceed its pro rata share for the reasonably anticipated expansion costs of capital improvements for parks and recreation services necessitated by new development. 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 or resolution.

Sec. 12-185. Exemptions.

(a) The following shall be exempt from payment of parks and recreation impact fees:

(1) An alteration or expansion of an existing dwelling unit where no additional dwelling units are created and the use is not changed.

(2) The construction of an accessory building or structure to a residential use which will not create additional uses or an increase in density of the residential development.

(3) The replacement of an existing dwelling unit of the same type and use where no additional dwelling units are created.

(4) The replacement of a lawfully permitted structure, the building permit for which was issued on or before the effective date of this ordinance, or the replacement of a structure that was constructed subsequent thereto and for which the correct parks and recreation impact fees which were owed at the time the building permit was applied for, were paid or otherwise provided for with a new structure of the same use and at the same location with no increase of density or intensity of development.

(5) A building permit for which the parks and recreation impact fees have been or will be paid or otherwise provided for pursuant to a written agreement, zoning approval or development order pertaining to development which, by the specific written terms

thereof, clearly and unequivocally was intended to provide for the full mitigation of impacts to parks and recreation facilities by enforcement of the agreement, zoning approval or development order, and not by the application of this ordinance.

(6) A building permit which pertains to residential development which does not result in any additional impact on parks and recreation facilities and hence cannot be classified as parks and recreation impact construction; provided, however, that all development shall be presumed to be parks and recreation impact construction and cause additional impacts on parks and recreation facilities.

(7) An exemption must be claimed by the fee payer at the time of the issuance of a building permit development order, or other permit. Any exemption not so claimed shall be deemed irrevocably waived by the fee payer.

Sec. 12-186. Individual Calculation of Parks and Recreation Impact Fees..

(a) The city council may adopt administrative regulations by resolution to ensure that any affordable housing unit that has received a certificate of affordability from the federal, state, or county government remains affordable.

Sec. 12-187. Conveyance of Land or Equipment and Impact Fee Credits; Transfer of Credits.

(a) In order to provide lands to meet the need for city parks and recreation sites created by parks and recreation impact construction or to provide necessary city parks and recreation capital equipment or facilities, a developer of parks and recreation impact construction may convey suitable land, capital equipment or facilities, to the city in lieu of paying the parks and recreation impact fee imposed herein, as agreed to by the city. However, no impact fee reduction shall exceed the amount of the parks and recreation impact fee imposed in this article.

(b) Any land, capital equipment, or facilities conveyed to the city in lieu of paying the parks and recreation impact fee imposed herein must be acceptable to the city in terms of suitable size, dimension, soil type, topography, location, accessibility and general character, type, and specifications.

(c) Subject to the terms and conditions of this section, credit may be granted against the parks and recreation impact fee imposed herein for the conveyance of land, or capital equipment or facilities that is required pursuant to a development order or permit or made voluntarily in connection with parks and recreation impact construction. Such conveyances, equipment or facilities shall be subject to the approval and acceptance of the city council.

(d) No credit shall be given for the conveyance of land, capital equipment, or construction of facilities unless such property is conveyed in fee simple or a bill of sale is executed to the city without further consideration.

(e) Prior to issuance of a building permit, or if no building pen-nit is required, prior to the issuance of the final development order, the applicant shall submit a proposed

plan for conveyance or contributions to the city to the city administrator or designee. The proposed plan shall include:

(1) A designation of the parks and recreation impact construction for which the plan is being submitted;

(2) A legal description of any land proposed to be conveyed and a written appraisal prepared in conformity with subsection (h) of this section;

(3) A list of the contemplated contributions to the city and an estimate of the proposed construction costs certified by a professional architect or engineer or an estimate of the proposed value of a proposed conveyance of capital equipment; and

(4) A proposed time schedule for completion of the proposed plan.

(f) Within sixty (60) days after receipt, the city administrator or designee shall recommend approval or denial of the proposed plan in accordance with subsection (g) of this section and, if approval is recommended, establish the amount of credit in accordance with subsection (h) of this section.

(g) In reviewing the proposed plan, the city administrator or designee shall determine:

(1) If such proposed plan is in conformity with needed contemplated improvements and additions to the parks and recreation facilities;

(2) If the proposed conveyance of land or capital equipment and construction by the applicant is consistent with the public interest; and

(3) If the proposed time schedule is consistent with the capital improvement program for the parks and recreation.

(h) The amount of developer contribution credit shall be determined as follows:

(l) The value of conveyed land shall be based upon a written appraisal of fair market value as determined by a Member Appraisal Institute (MAI) appraiser who was selected and paid for by the applicant, and who used generally accepted appraisal techniques. If the appraisal does not conform to the requirements of this section and any applicable administrative regulations, the appraisal shall be corrected and resubmitted. In the event the city administrator or designee accepts the methodology of the appraisal but disagrees with the appraised value, (s)he may engage another MAI appraiser at the city's expense, and the value shall be an amount equal to the average of the two (2) appraisals. If either party does not accept the average of the two (2) appraisals, a third appraisal shall be obtained, with the cost of said third appraisal being shared equally by the city and the owner or applicant. The third appraiser shall be selected by the first two (2) appraisers, and the third appraisal shall be binding on the parties.

(2) The value of the construction of an improvement or the value of conveyed capital equipment shall be based upon the actual cost of construction or acquisition of said

improvement or capital equipment as certified by a professional architect or engineer or as shown by a manufacturer's or supplier's invoice. However, as to the construction of improvements to parkland, in no event shall any credit be granted in excess of the estimated construction costs provided by a professional architect or engineer and approved by the city unless the construction project is competitively bid, in which case, the credit shall be limited to the actual cost of construction. The cost of professional services shall be competitively bid in accordance with 287.055, Florida Statutes to be eligible for impact fee credits.

(i) If a proposed plan is approved for credit by the city, the applicant or owner and the city shall enter into a credit agreement which shall provide for:

(1) The timing of actions to be taken by the applicant and the obligations and responsibilities of the applicant, including, but not limited to, the construction standards and requirements to be complied with;

(2) The obligations and responsibilities of the city council, if any;

(3) The amount of the credit as determined in accordance with subsection (h) of this section.

(j) Credits shall expire twenty-four (24) months from the date of the credit agreement.

(k) Credit for the conveyance of land shall be granted at such time as the property has been conveyed to and accepted by the city. Credit for the construction of an improvement or conveyance of capital equipment to the city shall be granted at such time as the construction is completed, approved, and accepted by the city or the time the capital equipment is approved and accepted by the city. The administration of said contribution credits shall be the responsibility of the city administrator or designee.

(l) Any applicant or owner who submits a proposed plan pursuant to this section and desires the issuance of a building permit or other final development order prior to approval of the proposed plan shall pay the applicable parks and recreation impact fee imposed herein. Any difference between the amount paid and the amount due should the city administrator or designee approve and accept the proposed plan, shall be refunded to the applicant or owner.

(m) The land or capital equipment or facilities conveyed or constructed shall only provide improvements required to accommodate growth.

(n) The actual cost for processing of and fees for legal preparation or review of a credit agreement shall be paid by the applicant prior to acceptance of the agreement by city council.

(p) All or a portion of credits provided pursuant to this section may be transferred from one (1) parks and recreation impact construction site to another. Untimely requests to transfer credits shall not be considered, nor shall the city council consider a request to transfer any parks and recreation impact fee credits distributed by the city to any owner of record prior to the effective date of this subsection, unless the project was specifically

approved at the time of submittal to allow the future transfer of such credits. The owners of the two sites shall submit a notarized agreement regarding the transfer which provides a legal description of both properties. The actual cost for processing of and fees for legal review of the agreement shall be paid by the parties prior to the city accepting the transfer. Costs for transferring credits shall be imposed by resolution of the city council. Upon acceptance by city council, the city shall notify both parties by certified mail, return receipt requested. The property owner surrendering the credit shall be responsible for paying impact fees imposed by this chapter when the property is developed.

Sec. 12-188. Refund of Impact Fees Paid.

(a) If a building permit or final development order expires or is canceled without commencement of the construction, the owner of record shall be entitled to a refund, without interest, of the impact fee. The owner of record shall apply for the refund to the city administrator, or designee, within one hundred eighty (180) days of the expiration of the permit or final development order. Failure to submit the application for refund within the time specified constitutes a waiver of any claim to such monies. Upon review of the completed application the city administrator shall issue the refund if it is clear the building permit or final development order has expired without the commencement of construction.

(b) Any funds not expended or encumbered by the end of the calendar quarter immediately following six (6) years from the date the impact fee was paid shall, upon application of the owner of record, be returned to such owner of record without interest provided that the owner of record submits an application for a refund to the city administrator or designee. This six-year period may be extended by action of the city council for up to an additional three (3) years. Failure to submit the application within the time specified herein constitutes a waiver of any claim to such monies. The city council shall issue such refund if a determination is made that the impact fees were not expended or encumbered within the time specified.

Sec. 12-189. Appeals.

Any person who disagrees with a decision or interpretation of this chapter may appeal to the city administrator or designee by filing a written notice of appeal within ten (10) days after the date of the action or decision complained of. The written notice of appeal shall set forth concisely the action or decision appealed as well as the grounds upon which the appeal is based. The city administrator or designee shall consider all facts material to the appeal and render a written decision within thirty (30) days of receiving the appeal. Any person who disagrees with the decision of the city administrator or designee may appeal to the city council by filing a written notice of appeal with the city administrator's office setting forth concisely the decision appealed within ten (10) days after the date of the city administrator's decision. The appeal shall be set for the next available city council meeting for consideration. At the meeting, the city council shall render a verbal decision. The minutes of the meeting shall constitute the city's final written decision and shall constitute final administrative review.

SECTION 2. Codification. It is the intent of the City Council of the City of Apopka that the provisions of this Ordinance shall be codified. The codifier is granted broad and liberal authority in renumbering and codifying the provision of this Ordinance; article and section numbers assigned throughout are suggested by the City, consistent with impact fee chapters of other municipalities.

SECTION 3. Severability. If any section, sentence, phrase, word or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word or portion of this Ordinance not otherwise determined to be invalid, unlawful or unconstitutional.

SECTION 4. Conflicts. This Ordinance supersedes all previous Ordinances relating to parks and recreation impact fees previously adopted by the City of Apopka, and such Ordinances are hereby vacated and deleted in their entireties. In any case where a provision of this Ordinance conflicts with a provision of any other existing ordinance of this City, the provision which establishes the higher standards for the promotion and protection of the health and safety of the people shall prevail.

SECTION 5. Effective Date. This Ordinance shall become effective on _____ or ninety (90) days from the date of the advertised notice for this Ordinance, pursuant to § 163.31801, Florida Statutes.

PASSED AND ORDAINED this _____ day of _____, by the City Council of the City of Apopka, Florida.

PASSED AND ORDAINED this _____ day of _____ 2025, by the City Council of the City of Apopka, Florida.

READ FIRST TIME: _____

READ SECOND TIME
AND ADOPTED: _____

ATTEST:

_____
Bryan Nelson, Mayor

_____
Susan M. Bone, City Clerk

DULY ADVERTISED FOR
PUBLIC HEARING: _____

APPROVED as to form and legality
for use and reliance by the City of
Apopka, Florida

_____
Clifford B. Shepard, City Attorney