

**ORDINANCE NO. 07-23-LC**

**AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA RELATING TO PUBLIC LIBRARY IMPACT FEES; PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR AN AMENDMENT OF LAND DEVELOPMENT CODE SECTION 19.02.01. INTENTS AND PURPOSES; PROVIDING FOR AN AMENDMENT OF LAND DEVELOPMENT CODE SECTION 19.02.04. IMPOSITION OF PUBLIC LIBRARY IMPACT FEE; PROVIDING FOR AN AMENDMENT OF LAND DEVELOPMENT CODE SECTION 19.02.05. COMPUTATION OF THE AMOUNT OF PUBLIC LIBRARY IMPACT FEE; PROVIDING FOR AN AMENDMENT OF LAND DEVELOPMENT CODE SECTION 19.02.09. USE OF FUNDS; PROVIDING FOR AN AMENDMENT OF LAND DEVELOPMENT CODE SECTION 19.02.12. REVIEW; PROVIDING FOR INCORPORATION INTO THE LAND DEVELOPMENT CODE; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DESTIN, FLORIDA:**

**SECTION 1: AUTHORITY.** The authority for the enactment of this Ordinance is Section 1.01 of the City Charter; Chapter 163, Part II, *Florida Statutes*; Sections 166.021 and 166.041, *Florida Statutes*; and the City's Comprehensive Plan.

**SECTION 2: FINDINGS OF FACTS.**

**WHEREAS**, a public hearing has been conducted after "due public notice" by the Destin Planning Commission sitting as the Local Planning Agency with its recommendations reported to the City Council; and

**WHEREAS**, a public hearing has been conducted by the City Council after "due public notice"; and

**WHEREAS**, the park impact fee ordinance provides for periodic review by the City Council; and

**WHEREAS**, the review has been conducted and the results are contained in the report entitled "Impact Fee Study for Transportation, Parks, Library and Police Facilities," dated July 2007; and

**WHEREAS**, the City Council has determined that the revisions to the parks impact fee are necessary; and

**WHEREAS**, the City Council has determined that this Ordinance is consistent with the adopted Comprehensive Plan and is in the best interests of the City and its citizens.

NOTE: *Language in sections 3, 4, 5, 6, and 7 of this ordinance that is ~~struck through~~ is language proposed to be deleted, underlined language is language proposed to be added, language that is not ~~struck through~~ or underlined is not to be changed, and \* \* \* represents sections of the Land Development Code that have been skipped and remain unchanged.*

**SECTION 3. AMENDMENT OF LAND DEVELOPMENT CODE SECTION 19.02.01. INTENTS AND PURPOSES.** Section 19.02.01. *Intents and Purposes* of the Land Development Code is hereby amended as follows:

19.02.01. *Intents and purposes.*

A. *Legislative findings:*

1. The City Council has determined that the City of Destin must expand its public library capital facilities in order to maintain current library standards if new development is to be accommodated without decreasing current standards. This must be done in order to promote and protect the public health, safety, and welfare.
2. The City Council has determined that the Florida Legislature through the enactment of Chapter 163, Part II, Florida Statutes, encourages local governments to adopt innovative approaches to development.
3. The City Council has determined that the authority to adopt this ordinance is pursuant to Section 1.01.(b) of the City Charter, and Section 166.021, Florida Statutes.
4. The City Council has determined that the imposition of impact fees is one of the preferred methods of ensuring that development bears a proportionate share of the cost of public library capital improvements necessary to accommodate such development. This must be done in order to promote and protect the public health, safety, and welfare.
5. The City Council has determined that each of the types of land development described in section 19.02.05.A., will create a demand for the construction, equipping, acquisition, or expansion of public library capital improvements.
6. The City Council has determined that the fees established by section 19.02.05.A. are derived from, based upon, and do not exceed the costs of providing additional public library capital improvements necessitated by the new land developments for which the fees are levied.
7. The City Council has determined that the report entitled ~~“Technical Memorandum on the Methods Used to Calculate Public Facility Costs,” dated August 8, 1997~~ “Impact Fee Study for Transportation, Parks, Library and Police Facilities,” dated July 2007, sets forth a reasonable methodology and analysis for the determination of the impact of new development on the need for and costs for additional public library capital improvements in the City of Destin.

B. This article is intended to assist in the implementation of the City of Destin Comprehensive Plan.

C. The purpose of this article is to regulate the development of land so as to ensure that new development bears a proportionate share of the cost of capital expenditures necessary to provide public library capital improvements in the City of Destin.

D. This article shall not apply to development for which the City of Destin is the applicant.

**SECTION 4. AMENDMENT OF LAND DEVELOPMENT CODE SECTION 19.02.04.**

**IMPOSITION OF PUBLIC LIBRARY IMPACT FEE.** Section 19.02.04. *Imposition of public library impact fee* of the Land Development Code is hereby amended as follows:

19.02.04. *Imposition of public library impact fee.*

- A. Any person who, ~~after the effective date of this article~~, applies for a certificate of occupancy, is hereby required to pay a public library impact fee in the manner and amount set forth in this article.
- B. No new certificate of occupancy, for any activity requiring payment of an impact fee pursuant to section 19.02.05.A., shall be issued unless and until the required public library impact fee hereby has been paid.
- C. Any development that received a final development order or development permit on or before [the date of adoption of the ordinance creating the “new” fee schedule] shall be subject to the “old” fee schedule in Section 19.02.05, provided that development proceeds to issuance of the certificate of occupancy without expiration of the development order or development permit.
- D. All other development shall be subject to the following fee schedules in Section 19.02.05:
  - 1. The “old” fee schedule for certificates of occupancy issued before [90 days from ordinance adoption].
  - 2. The “interim” fee schedule for certificates of occupancy issued between [90 days from ordinance adoption] and [one year from ordinance adoption], inclusive.
  - 3. The “new” fee schedule for certificates of occupancy issued after [one year from ordinance adoption].
- E. The City may provide estimates of impact fees at time of development order, or building permit for projects not requiring a development order, but such estimates shall not be binding and shall not exempt applicants from paying according to the fee schedule in effect at time of certificate of occupancy.

**SECTION 5. AMENDMENT OF LAND DEVELOPMENT CODE SECTION 19.02.05. COMPUTATION OF THE AMOUNT OF PUBLIC LIBRARY IMPACT FEE.** Section 19.02.05. *Computation of the amount of public library impact fee* of the Land Development Code is hereby amended as follows:

19.02.05. *Computation of the amount of public library impact fee.*

- A. At the option of the feepayer, the amount of the public library impact fee may be determined by the following fee schedules:

“OLD” FEE SCHEDULE

LAND USE TYPE (PER/UNIT)	FEE
<i>Residential unit type:</i>	
Single-family detached	\$107.8
Multi-family	76.19

Resort residential unit	76.19
Hotel/motel	0.00
All other	107.84

“INTERIM” FEE SCHEDULE

<u>LAND USE TYPE (PER/UNIT)</u>	<u>FEE</u>
<u>Residential, less than 500 sq. ft., per dwelling unit</u>	<u>\$62</u>
<u>Residential, 500 - 749 sq. ft., per dwelling unit</u>	<u>\$78</u>
<u>Residential, 750 - 999 sq. ft., per dwelling unit</u>	<u>\$93</u>
<u>Residential, 1,000 - 1,499 sq. ft., per dwelling unit</u>	<u>\$112</u>
<u>Residential, 1,500 - 1,999 sq. ft., per dwelling unit</u>	<u>\$133</u>
<u>Residential, 2,000 - 2,999 sq. ft., per dwelling unit</u>	<u>\$160</u>
<u>Residential, 3,000 - 3,999 sq. ft., per dwelling unit</u>	<u>\$190</u>
<u>Residential, 4,000 sq. ft or more, per dwelling unit</u>	<u>\$217</u>
<u>Mobile Home/RV Park, per pad</u>	<u>\$149</u>
<u>Hotel/Motel, per room</u>	<u>\$0</u>

“NEW” FEE SCHEDULE

<u>LAND USE TYPE (PER/UNIT)</u>	<u>FEE</u>
<u>Residential, less than 500 sq. ft., per dwelling unit</u>	<u>\$72</u>
<u>Residential, 500 - 749 sq. ft., per dwelling unit</u>	<u>\$91</u>
<u>Residential, 750 - 999 sq. ft., per dwelling unit</u>	<u>\$108</u>
<u>Residential, 1,000 - 1,499 sq. ft., per dwelling unit</u>	<u>\$131</u>
<u>Residential, 1,500 - 1,999 sq. ft., per dwelling unit</u>	<u>\$155</u>
<u>Residential, 2,000 - 2,999 sq. ft., per dwelling unit</u>	<u>\$186</u>
<u>Residential, 3,000 - 3,999 sq. ft., per dwelling unit</u>	<u>\$222</u>
<u>Residential, 4,000 sq. ft or more, per dwelling unit</u>	<u>\$252</u>
<u>Mobile Home/RV Park, per pad</u>	<u>\$174</u>
<u>Hotel/Motel, per room</u>	<u>\$0</u>

1. If a certificate of occupancy is requested for mixed uses, then the fee shall be determined by using the above schedules and apportioning the space committed to uses specified on the schedules.
  2. In the case of change of use, redevelopment, or expansion or modification of an existing use which requires the issuance of a certificate of occupancy, the impact fee shall be based upon the net positive increase in the impact fee for the new use as compared to the previous use. The city manager shall be guided in this determination by the supporting documents of the City of Destin Comprehensive Plan, City of Destin Zoning Ordinance, and by considering demographic or other documentation which is available from state, local, and regional authorities.
- B. If a feepayer opts not to have the impact fee determined according to paragraph A. of this section, then the feepayer shall prepare and submit to the city manager an independent fee calculation study for the land development activity for which a certificate of occupancy is sought. The documentation submitted shall show the basis upon which the independent fee calculation was made. The city manager shall consider the documentation submitted by the feepayer but is not required to accept

such documentation as he/she shall reasonably deem to be inaccurate or not reliable and may, in the alternative, require the feepayer to submit additional or different documentation for consideration. If an acceptable independent fee calculation study is not presented, the feepayer shall pay the public library impact fee based upon the schedule shown in paragraph A. of this section. If an acceptable independent fee calculation study is presented, the city manager may adjust the fee to that appropriate to the particular development. Determinations made by the city manager pursuant to this paragraph may be appealed to the City Council by filing a written request with the city manager within ten days of the city manager's determination. Failure to file an appeal shall constitute a waiver of the feepayer's right to challenge the city manager's determination regarding a feepayer's independent impact fee calculation study.

**SECTION 6. AMENDMENT OF LAND DEVELOPMENT CODE SECTION 19.02.09. USE OF FUNDS.** Section 19.02.09. *Use of funds* of the Land Development Code is hereby amended as follows:

19.02.09. *Use of funds.*

- A. Funds collected from the public library impact fees shall be used solely for the purpose of acquiring, equipping, and/or making capital improvements to public library facilities under the jurisdiction of the City of Destin, ~~the county, or the State of Florida,~~ and shall not be used for maintenance or operations.
- B. Funds shall be expended in the order in which they are collected.
- C. In the event that bonds or similar debt instruments are issued for advanced provision of public library capital improvements for which public library impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the improvements provided are of the type described in paragraph A. above and are located within the public library impact fee district established by section 19.02.07.
- D. At least once each fiscal period, the city manager shall present to the City Council a proposed capital improvement program for public libraries, assigning funds, including any accrued interest, from the public library impact fee trust funds to specific public library capital improvement projects and related expenses. Monies, including any accrued interest, not assigned in any fiscal period shall be retained in the public library impact fee trust fund until the next fiscal period, except as provided by section 19.02.10.
- E. Funds may be used to provide refunds as described in section 19.02.10.

**SECTION 7. AMENDMENT OF LAND DEVELOPMENT CODE SECTION 19.02.12. REVIEW.** Section 19.02.12. *Review* of the Land Development Code is hereby amended as follows:

19.02.12. *Review.*

- A. The fee schedule contained in section 19.02.05.A., shall be reviewed by the City Council at least once every two years following its adoption. In years when a comprehensive update is not performed, the fees schedules shall be adjusted to account for construction cost inflation, pursuant to the provisions of this section.

B. On January 1 following each calendar year during which any fee schedule set forth in Section 19.02.05 was not comprehensively updated, an adjusted fee schedule shall become effective. The City manager shall publish on the City's web site and otherwise make publicly available the adjusted impact fee schedule. The City Manager shall calculate adjustments to the impact fee rates based upon the percentage change over the most recently-available preceding 12-month period in the Engineering News-Record construction cost index, or, if this index becomes unavailable, a comparable index.

**SECTION 8. INCORPORATION INTO LAND DEVELOPMENT CODE.** This ordinance shall be incorporated into the City of Destin's Land Development Code and any section or paragraph number or letter and any heading may be changed or modified as necessary to effectuate the foregoing.

**SECTION 9. CONFLICTING PROVISIONS.** Special Acts of the Florida Legislature applicable to the incorporated area of the City of Destin, City Ordinances and City Resolutions, or parts, thereof, in conflict with the provisions of this ordinance are hereby superseded by this ordinance to the extent of such conflict.

**SECTION 10. SEVERABILITY.** Each separate provision of this ordinance is deemed independent of all other provisions herein so that if any portion or provision of this ordinance is declared invalid, all other provisions thereof shall remain valid and enforceable.

**SECTION 11. EFFECTIVE DATE.** This Ordinance shall become effective upon its adoption by the City Council and signature by the Mayor.

**ADOPTED THIS \_\_\_ DAY OF \_\_\_\_\_.**

By: \_\_\_\_\_  
Craig H. Barker, Mayor

ATTEST:

The form and legal sufficiency of the foregoing has been reviewed and approved by the City Land Use Attorney.

\_\_\_\_\_  
Rey Bailey, City Clerk

\_\_\_\_\_  
Scott Shirley, City Land Use Attorney

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_