

ORDINANCE NO. 2008-29

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LADY LAKE, FLORIDA, AMENDING CHAPTER 13 OF THE TOWN OF LADY LAKE CODE OF ORDINANCES TO PROVIDE FOR LIBRARY IMPACT FEES, FINDING A NEED FOR LIBRARY IMPACT FEES; PROVIDING FOR THE SETTING OF LIBRARY IMPACT FEE RATES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE OF NINETY DAYS AFTER ADOPTION.

WHEREAS, the Town of Lady Lake continues to develop and expand by annexation and by increased development of property currently within the municipal boundaries; and

WHEREAS, the Town of Lady Lake has undertaken a reasonable analysis for the determination of the impact of new development on the need for and costs of additional library facilities and capital improvements in the Town of Lady Lake; and

WHEREAS, the Town of Lady Lake has adopted a comprehensive plan which requires the Town to plan for the financial requirements of growth and intensified uses; and

WHEREAS, the imposition of a library impact fee is seen as a proper means of requiring growth to help defray the capital expenditures necessary by such growth.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LADY LAKE THAT:

Section 1. Findings

- A. The Town Commission has determined that the Town of Lady Lake must expand its libraries in order to maintain current 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;
- B. The Town Commission has determined that the Florida Legislature, through the enactment of the "Florida Impact Fee Act," Section 163.31801, encourages local governments to adopt innovative approaches to development;
- C. The Town Commission 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 capital improvements necessary to accommodate such development. This must be done in order to protect the public health, safety, and welfare;
- D. The type of land development described in section 13-34 will create demand for the acquisition or expansion of libraries and the construction of library improvements;
- E. The implementation of a library impact fee to require future growth to contribute its fair share of the cost of required capital improvements and additions is an integral and vital element of the regulatory plan of growth management in the Town;

- F. The fees established by section 13-34 are derived from, are based upon, and do not exceed the costs of providing additional libraries and library improvements necessitated by the new land developments for which the fees are levied; and
- G. The report entitled "Parks & Recreation and Library Impact Fee Study: Prepared by Burton & Associates" sets forth a reasonable methodology and analysis for the determination of the impact of new residential development on the need for and costs for additional library facilities and capital improvements in the Town.

Section 2. Amendment

Chapter 13 entitled "Special Assessments" of the Town of Lady Lake Code Of Ordinances is hereby amended as follows:

CHAPTER 13

SPECIAL ASSESSMENTS*/ IMPACT FEES/ SUPPLEMENTAL FEES

Article III: Town of Lady Lake Library Impact Fee Ordinance

Sec. 13-28: Short Title, Authority and Applicability

- (a) This chapter shall be known and may be cited as the "Town of Lady Lake Library Impact Fee Ordinance."
- (b) The Town Commission has the authority to adopt this ordinance pursuant to Article VIII of the Constitution of the State of Florida, and Section 163.31801, Florida Statutes.
- (c) This chapter shall apply in the Town limits of Lady Lake.

Sec. 13-29: Intent and Purpose

- (a) This chapter is intended to assist in maintaining the current level of service of libraries and library facilities in the Town of Lady Lake.
- (b) The purpose of this chapter is to require the payment of a fee so as to assure that new development bears a proportionate share of the cost of capital expenditures necessary to provide libraries in the Town of Lady Lake.

Sec. 13-30: Rules of Construction

- (a) The provisions of this chapter shall be liberally construed so as to effectively carry out its purpose in the interest of the public health, safety and welfare.
- (b) For the purposes of administration and enforcement of this ordinance, unless otherwise stated in this chapter, the following rules of construction shall apply to the text of this chapter:

1. In case of any difference of meaning or implication between the text of this ordinance and any caption, illustration, summary table, or illustrative table, the text shall control.
2. The word "shall" is always mandatory and not discretionary; the word "may" is permissive.
3. Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
4. The phrase "used for" includes "arranged for," "designed for," "maintained for," or "occupied for."
5. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
6. Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either . . . or," the conjunction shall be interpreted as follows:
 - a) "And" indicates that all the connected terms, conditions, provisions or events shall apply.
 - b) "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
 - c) "Either . . . or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
7. The word "includes" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.

Sec. 13-31: Definitions

As applied in this article, the following words and terms shall have the following meanings, unless another meaning is clearly intended:

Certificate of Occupancy shall mean a Certificate of Occupancy issued by the Town of Lady Lake government pursuant to the Town building code, or equivalent municipal permit. If no Certificate of Occupancy is required for the construction or occupation of a structure then the term shall be deemed to include the Building Permit or other form of final Town approval, or equivalent municipal permit or approval, for the construction or occupancy of a structure. The term "Certificate of Occupancy," as used in this article, shall be deemed to include a Mobile Home installation permit issued pursuant to the Town building code, or equivalent municipal permit or approval.

Fee payer shall mean a person commencing a land development activity by applying for the issuance of a Certificate of Occupancy or Building Permit to construct a residential dwelling unit.

Mobile Home shall mean a detached Single-Family Dwelling Unit with all the following characteristics: (1) designed for long term occupancy, and containing sleeping

accommodations, a flush toilet, a tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems; (2) designed for transportation after fabrication on streets or highways on its own wheels; and (3) arriving at the site where it is to be occupied as a dwelling complete, including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connection to utilities and the like. A travel trailer is not to be considered as a Mobile Home.

Residential Dwelling Unit shall mean a room or rooms connected together, constituting a separate, independent housekeeping entity for residential occupancy or rental or lease; and physically separated from any other rooms or Dwelling Units which may be in the same structure; and containing sleeping and sanitary facilities and one kitchen. The term "Dwelling Unit," as used in this article, shall be deemed to include apartment units, condominium units, single-family homes, units in two-family and multiple-family homes, and mobile home dwellings, but shall not include motels, hotels, or boardinghouses for transient guests.

Town Commission means the legislative and policy-making board of the Town of Lady Lake.

Sec. 13-32: Imposition of Library Impact Fee

- (a) Any person who, after March 2, 2009, seeks to develop land within the limits of the Town of Lady Lake, Florida, by applying for a building permit for a residential building or the extension of a building permit for a residential building which will generate additional impacts is hereby required to pay a library impact fee in the manner and amount set forth in this chapter. The library impact fee shall be determined at the time of building permit application.
- (b) No certificate of occupancy for any activity requiring payment of an impact fee pursuant to section FF shall be issued by the Town of Lady Lake unless and until the library impact fee hereby required has been paid.

Sec. 13-33: Review of Fee Amounts

The library impact fee shall be determined and reviewed every five (5) years in accordance with the cost of any expanded or new capital facilities and equipment for library facilities and capital improvement generated by new residential construction and the money otherwise available to meet such costs. The Town Commission may annually adjust the established fee rate to reflect changes in the costs of relevant capital facilities, capital improvement, and equipment. All changes or adjustments in the established fee rate shall be made by ordinance after advertising and public hearings and shall apply only to residential construction for which building permits are issued after the effective date of such ordinance.

Sec. 13-34: Rates

- (a) At the option of the fee payer, the amount of the library impact fee may be determined by the following fee schedule:

Library Impact Fee	
Development Type and Unit	Fee
All residential buildings	\$391.00 per residential dwelling unit

The payment of the library impact fee shall be in addition to all other fees, charges or assessments due for the issuance of a building permit or final development order. This fee was calculated based on a model developed by Burton & Associates in their study, "Town of Lady Lake Impact Fee Study." This model was crafted to meet the common law and statutory requirement that the fee (I) have a rational nexus between the anticipated need for additional capital facilities and growth and population, and (II) have a rational nexus between the expenditure of funds collected and the benefits accruing to the growth. See § 163.31801, *Florida Statutes*; *St. Johns County v. Northeast Florida Builder's Ass'n, Inc.*

(b) If a fee payer opts not to have the impact fee determined according to paragraph (a) of this section, then the fee payer shall prepare and submit to the Town Manager an independent fee calculation study for the land development activity for which a building permit is sought. The documentation submitted shall show the basis upon which the independent fee calculation was made. The Town Manager shall consider the documentation submitted by the fee payer but is not required to accept such documentation if he or she reasonably deems it to be inaccurate or not reliable and may, in the alternative, require the fee payer to submit additional or different documentation for consideration. If an acceptable independent fee calculation study is not presented, the fee payer shall pay library impact fees based upon the schedule shown in paragraph (a) of this section. If an acceptable independent fee calculation study is presented, the Town Manager may adjust the fee to that appropriate to the particular development. Determinations made by the Town Manager pursuant to this paragraph may be appealed to the Town Commission by filing a written request with the Town Commission within ten (10) days of Town Manager's determination.

(c) The obligation for payment of the library impact fee shall run with the residential land.

Sec. 13-35: Time of Payment; Remedies for Nonpayment

The library impact fee shall be due and payable at the time of issuance by the Town Growth Management Department of a building permit or mobile home tie down permit and shall not be refundable once such permit has been issued. No building permit or mobile home tie down permit shall be issued until all applicable fees have been received by the Town of Lady Lake.

Sec. 13-36: Library Impact Fee Trust Fund Established

- (a) There is hereby established a special library impact fee trust fund.
- (b) Funds withdrawn from this account must be used in accordance with the provisions of section 13-37.

Sec. 13-37: Use of Library Impact Fees

- (a) Funds collected from the library impact fee shall be used solely for the purpose of acquiring and/or making capital improvements to library facilities under the jurisdiction of the Town of Lady Lake 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 library capital improvements for which 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 Town.
- (d) At least once each fiscal period, the Town Manager shall present to the Town Commission an annual report of impact fees collected, credit provided, the total account balance for the library impact fee trust fund, and projects under construction or completed.
- (e) The annual capital improvements program shall clearly identify the amount of library impact fees used for a project. Monies, including any accrued interest, not assigned to a project in any fiscal period shall be retained in the library impact fee trust fund until the next fiscal period.
- (f) Funds collected, not to exceed the cost set forth in section 13-39, shall be used to fund the administrative cost to implement and operate the impact fee program including the salary and benefits of the impact fee administrator.

Sec. 13-38: Exceptions

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

- (a) Remodeling, replacing, rebuilding or making additions to a residential structure, including a mobile home, which does not create an additional residential dwelling unit;
- (b) Construction of any public-purpose structure by the Town of Lady Lake or any agency, subdivision or instrumentality thereof; and construction of any other public-purpose structure by Federal, State, or local government with legislative exemption from such fee;
- (c) Construction of accessory buildings not containing bedrooms;
- (d) The replacement of any residential dwelling unit on the same site with a new residential dwelling unit provided the replacement does not create any additional residential dwelling units. If an additional dwelling unit is created, the additional dwelling unit is not exempt from the requirements of this ordinance. By way of example, if a ten-unit apartment complex is demolished and replaced with a fifteen-unit apartment complex, only the first ten units will be exempt from the impact fee. The five additional dwelling units will be subject to the impact fee as provided in section 13-34 of this article;
- (e) The installation of a replacement mobile home on the same site which does not create an additional residential dwelling unit;
- (f) Non-residential buildings or structures or the installation of a non-residential mobile home;

- (g) The replacement of a conventionally built home with a conventionally built home when a conventionally built home legally existed on such site and has been moved to another site.

Sec. 13-39: Cost to Implement

The cost to implement and administer the library impact fee ordinance shall be based upon the actual cost to implement and administer the ordinance in accordance with Section 163.31801(3)(c), Florida Statutes.

Section 3. Severability

The provisions of this ordinance are declared to be separable 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 effect 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 4. Inclusion in the Town of Lady Lake Code of Ordinances and the Town of Lady Lake Land Development Regulations

It is the intention of the Town Commission of the Town of Lady Lake that the provisions of this ordinance shall become and be made a part of the Town of Lady Lake Code of Ordinances and the Town of Lady Lake Land Development Regulations and that the sections of this ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to "section", "article" or such other appropriate word or phrase to accomplish such intentions.

Section 5. Effective Date

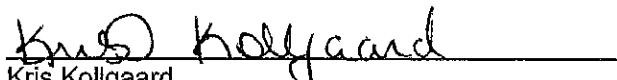
This ordinance shall become effective on the ninetieth day after final reading and adoption by the Town Commission of Town of Lady Lake, Florida as provided by law.

PASSED AND ORDAINED in regular session of the Town Commission of the Town of Lady Lake, Lake County, Florida, this 1st day of December, 2008.



HONORABLE Jim Richards MAYOR
Town of Lady Lake, Florida

ATTEST:



Kris Kollgaard
Town Clerk



Derek Schroth
Town Attorney

Passed First Reading 11-17-08

Passed Second Reading 12-1-08