

## ORDINANCE NO. 2022-17

AN ORDINANCE OF THE CITY OF WEST MELBOURNE, BREVARD COUNTY, FLORIDA, AMENDING CHAPTER 86, SUBDIVISIONS, ARTICLE II, IMPROVEMENTS, SECTION 86-64, DEDICATION OF PARKLAND OR PAYMENT OF RECREATION FEE; UPDATING THE FIXED FEE PER ACRE WHEN A DEVELOPER ELECTS TO PAY A RECREATION FEE IN LIEU OF DEDICATION OF PARK AND RECREATION LAND; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, the City Council of the City of West Melbourne, Brevard County, Florida, has found and determined that the public interest, health, welfare, and safety of the community require additional park and recreation land, improvements, and facilities as the City's population increases; and

**WHEREAS**, the City's Comprehensive Plan states that residential development shall be required to provide the appropriate amount of park space or pay a fee in lieu of dedication with such fee to be applied to the City's recreation needs; and

**WHEREAS**, section 86-64 of the City's Code of Ordinances requires dedication of park or recreation land to the City, or payment of a recreation fee in lieu thereof; and

**WHEREAS**, section 86-64(h) of the City's Code of Ordinances provides that if a developer elects to pay a recreation fee in lieu of dedication of park or recreation land, such fee shall be calculated by determining the fair market value of the amount of land otherwise required to be dedicated; and

**WHEREAS**, the City Council desires to promote fairness and uniformity in the calculation of the recreation fee by establishing a fixed fee per acre based on the fair market value of vacant land within the City based on recent actual sales.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of West Melbourne, Brevard County, Florida, that:

**Section 1. Findings.** The foregoing "Whereas" clauses are hereby ratified and incorporated as findings of the City Council and as the legislative intent of this ordinance.

**Section 2. Updating the Fixed Fee Per Acre When a Developer Elects to Pay a Recreation Fee in Lieu of Dedication of Park and Recreation Land.** Chapter 86, Subdivisions, Article II, Improvements, Sec. 86-64 – Dedication of parkland or payment of recreation fee, subsection (h) shall be amended and read as follows (deletions are indicated in ~~strikethrough~~, and additions in underline):

- "(h) If the developer complies with this section by the payment of a fee to the city, the amount of such fee shall be calculated by multiplying ~~\$80,000.00~~ \$110,000 by the number of acres otherwise required to be dedicated pursuant to this section. The fixed fee per acre shall be

reevaluated by the city administrative staff no less than every four years and compared with recent actual sales data for vacant land. The city manager shall report the results of such evaluation to the city council, and may recommend an adjustment to the fee when deemed appropriate.”

**Section 3. Severability.** The provisions of this ordinance are declared to be severable and if any section, sentence, clause or phrase of this ordinance shall for any reason be held by a court of competent jurisdiction to be invalid or unenforceable, such decision shall not affect the validity of the remaining terms, provisions, clauses, sentences, or sections 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. Conflict with Other Ordinances.** The provisions of this ordinance shall supersede any provision of existing ordinances in conflict herewith to the extent of said conflict.

**Section 5. Inclusion in Code.** It is the intention of the City Council of the City of West Melbourne that the provisions of this ordinance hereto shall be made a part of the City of West Melbourne Code of Ordinances and the sections be renumbered to accomplish such intention.

**Section 6. Effective Date.** This ordinance shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the City Council of the City of West Melbourne, Brevard County, Florida, this 9<sup>th</sup> day of August, 2022.

1<sup>st</sup> READING: July 19, 2022

2<sup>nd</sup> READING: August 9, 2022