

ST. JOHNS COUNTY ORDINANCE No. 91- 14

AN EMERGENCY ORDINANCE OF ST. JOHNS COUNTY, FLORIDA DECLARING THAT AN EMERGENCY EXISTS; MAKING FINDINGS AND DETERMINATIONS; THIS ORDINANCE AMENDS THE COUNTY'S EDUCATIONAL FACILITIES IMPACT FEE ORDINANCE (ORDINANCE NO. 87-60) BY: ADDING LEGISLATIVE FINDINGS, DELETING DEFINITIONS AND RELATED SECTIONS REGARDING INDEPENDENT FEE ASSESSMENTS; ADDING DEFINITIONS; DELETING OBSOLETE TRANSITIONAL PROVISIONS; ADDING PROVISIONS CLARIFYING THE TIMING OF PAYMENT; DELETING PROVISIONS REGARDING MUNICIPALITIES OPTING IN; ADDING PROVISIONS REGARDING ADMINISTRATIVE COSTS; ADDING AN EXEMPTION; AND AMENDING THE PENALTY PROVISION. IT PROVIDES FOR SEVERABILITY; AND PROVIDES AN EFFECTIVE DATE.

WHEREAS, the Florida Supreme Court in its opinion dated April 18, 1991 expressly upheld the validity of educational facility impact fee ordinances but determined that St. Johns County's ordinance #87-60 contained certain defects; and

WHEREAS, the Florida Supreme Court opinion stated that the opinion was not final until the time expires to file a rehearing motion and, if filed, determined; and

WHEREAS, the Board of County Commissioners of St. Johns County, Florida hereby determines that it is necessary and desirable to amend its ordinance #87-60 to address and correct such deficiencies prior to expiration of the time for filing a rehearing motion;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA:

SECTION ONE. In order to correct the County's educational facilities impact fee ordinance prior to the date upon which the Florida Supreme Court's opinion No. 75,986 may become final, the Board of County Commissioners of St. Johns County, Florida, waives notice requirements for this emergency ordinance

and declares that an emergency exists and that the immediate enactment of this emergency ordinance is necessary.

SECTION TWO. St. Johns County Ordinance #87-60 is hereby amended by deleting Section One therefrom and by adding and substituting the following therefor:

Section One: Legislative Findings

The Board of County Commissioners of St. Johns County, finds, determines and declares that:

A. The School Board of St. Johns County is required by Section 235.19 Florida Statutes to coordinate school site planning with the County's comprehensive plan; and

B. Section 235.193(1) Florida Statutes requires the coordination of planning between school boards and local governing bodies to ensure that plans for the construction and opening of public educational facilities are coordinated in time and place with plans for residential development and other necessary services; and

C. St. Johns County must expand its educational facilities in order to maintain current levels of service if new development is to be accommodated without decreasing current levels of service. This must be done in order to promote and protect the public health, safety and welfare; and

D. The Florida legislature through the enactment of Florida Statutes Section 163.3202(3) has sought to

encourage St. Johns County to enact impact fees; and

E. The Florida Supreme Court has expressly upheld the validity of educational facilities impact fee ordinances; and

F. The imposition of impact fees is one of the preferred methods of ensuring that development bears a proportionate share of the cost of educational capital facilities necessary to accommodate such development. This must be done in order to promote and protect the public health, safety and welfare; and

G. Each of the types of land development described in Section Seven hereof will place additional students in the public schools of St. Johns County necessitating the acquisition of school sites, the expansion of existing educational facilities and the construction of new educational facilities; and

H. The fees established by Section Seven are derived from, are based upon, and do not exceed the costs of providing for the acquisition of school sites, the expansion and equipping of existing educational facilities and the construction and equipping of new educational facilities necessitated by new land developments for which the fees are levied; and

I. The report entitled St. Johns County, Florida, Impact Fee Methodology," dated August, 1987, sets forth a reasonable methodology and analysis for the

determination of the impact of new development on the need for and costs for additional school sites and educational facilities in St. Johns County.

SECTION THREE. St. Johns County Ordinance #87-60 is hereby amended by deleting Section Five therefrom and by adding and substituting the following therefor:

Section Five: Definitions

A. A "feepayer" is a person or his successor in interest commencing a land development activity which may reasonably be expected to place students in the public schools of St. Johns County and which requires the issuance of a building permit for a residential building or structure or permit for mobile home installation who pays an impact fee.

B. "Capital costs of educational facilities" are expenditures for the acquisition of fixed assets or additions to fixed assets and expenditures for site acquisition, construction, design, site development, necessary off-site improvements, and capital equipment pertaining to educational facilities.

C. "Capital equipment" is equipment with an expected use life of three (3) years or more.

D. "Land Development Activity Which May Reasonably Be Expected To Place Students in the Public Schools of St. Johns County" means any change in land use or any construction or installation of residential buildings or

structures or any change in the use of any structure that will result in additional students in the public schools of St. Johns County.

E. "Development Order" means a regulatory approval by St. Johns County or a municipality therein.

F. "Mandatory or Required site dedications and/or educational facilities improvements" means such dedications and/or educational facilities improvements required by the County or by a municipality within St. Johns County.

G. "Electrical Energizing" is the initial connection of electrical power to any permanent power panel serving a building or mobile home for which a building permit or permit for mobile home installation has been obtained.

H. "Comprehensive Plan" is the St. Johns County Comprehensive Plan adopted pursuant to Chapter 163 of the Florida Statutes.

I. "Encumber" means to legally obligate by contract or otherwise to commit to use by appropriation or other official act of the School Board.

SECTION FOUR. St. Johns County Ordinance #87-60 is hereby amended by deleting Section Six therefrom and by adding and substituting the following therefor:

Section Six: Imposition of Educational Facilities Impact Fee

Any person who, after December 31, 1987, seeks to develop land within St. Johns County, Florida, by

applying for: a residential building permit; a permit for residential mobile home installation; Electrical Energizing; an extension of a residential building permit issued prior to January 1, 1988; an extension of a permit for residential mobile home installation issued prior to January 1, 1988; or a permit to make an improvement to land which may reasonably be expected to place additional students in the public schools of St. Johns County; is hereby required to pay an educational facilities impact fee in the manner and amount set forth in this ordinance.

SECTION FIVE. St. Johns County Ordinance #87-60 is hereby amended by deleting Section Seven therefrom and by adding and substituting the following therefor:

Section Seven: Computation of the Amount of Educational Facilities Impact Fee

The amount of the educational facilities impact fee shall be determined by the following fee schedule. The fees contained in the schedule reflect a discount of 15% from net cost to ensure that no fee payer is charged more than his or her fair share of the cost of educational facilities needed to serve the new development.

FEE SCHEDULE

LAND USE TYPE (UNIT)	TOTAL COST	CREDIT	NET COST	FEE
RESIDENTIAL UNITS PER STRUCTURE: ONE UNIT	\$2,899	\$2,451	\$448	\$381

2, 3 OR 4 UNITS EACH UNIT	2,174	1,838	336	286
5 OR MORE UNITS EACH UNIT	3,426	2,896	530	451
MOBILE HOME EACH UNIT	2,899	2,451	448	381
HOTEL/MOTEL ROOM PER ROOM	0	0	0	0
OTHER RESIDENTIAL EA UNIT	2,899	2,451	448	381

(2) If a building permit is requested for mixed uses, then the fee shall be determined through using the above schedule by apportioning the space committed to uses specified on the schedule.

(3) If the type of development activity that a building permit is applied for is not specified on the above fee schedule, the County Administrator shall use the fee applicable to the most nearly comparable type of land use on the above fee schedule. The County Administrator shall be guided in the selection of a comparable type of land use by information provided by the School Board of St. Johns County. If the County Administrator determines that there is no comparable type of land use on the above fee schedule then the County Administrator shall request a determination by the School Board of the appropriate fee.

(4) In the case of change of use, redevelopment, or expansion or modification of an existing use which requires the issuance of a building permit or permit for mobile home installation, 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 County Administrator shall be guided in this determination by

student generation statistics provided by the St. Johns County School Board.

**SECTION SIX.** St. Johns County Ordinance #87-60 is hereby amended by deleting Section Eight therefrom and by adding and substituting the following therefor:

Section Eight: Assessment and Payment of Fee

A. The person applying for the issuance of a building permit for accessory structures, additions to and remodeling of existing structures, or a permit for residential mobile home installation shall pay the fee, less any applicable credits as provided for in Section Twelve, to the County Administrator or his designee prior to the issuance of the building permit or permit for mobile home installation. No such permits shall be requested, issued, or approved until the applicable fee is paid.

B. The person applying for the issuance of a building permit other than for accessory structures, additions and remodeling of existing structures, or a permit for mobile home installation shall pay the fee, less any applicable credits as provided for in Section Thirteen, to the County Administrator or his designee as a prerequisite for approval of Electrical Energizing. The approval shall not be requested, issued or approved until the applicable fee is paid.

C. All funds collected shall be properly identified



and promptly transferred for deposit in the Educational Facilities Impact Fee Trust Fund to be held in a separate account as determined in Section Ten of this ordinance and used solely for the purposes specified in this ordinance.

E. No other building permit, certificate of occupancy or Electrical Energizing shall be requested, issued or approved until such applicable impact fee has been paid.

SECTION SEVEN. St. Johns County Ordinance #87-60 is hereby amended by deleting Section Ten therefrom and by adding and substituting the following therefor:

Section Ten: Use of Funds

A. Funds collected from educational facilities impact fees and deposited in the Educational Facilities Impact Fee Trust Fund by St. Johns County and municipalities located therein shall be remitted at least monthly to the School Board of St. Johns County. The collecting governmental entity shall be entitled to retain not more than three percent (3%) of the funds collected as compensation for the administrative expense of collecting the fees and administering this ordinance. The County shall conduct a study every two years to determine whether the three percent charge continues to reasonably cover the cost of administering this ordinance. The County shall adjust this administrative

cost according to the findings of those studies, and shall amend this provision of the ordinance, as well as Section Eleven (A), if the costs are found to exceed three percent (3%).

B. The remaining funds collected shall be transmitted to a separate trust fund established by the School Board of St. Johns County and shall be spent solely to acquire, construct, expand and equip the educational sites and educational capital facilities necessitated by new development.

C. The Board of County Commissioners of St. Johns County and the School Board will enter into an appropriate interlocal agreement to ensure proper use of the funds collected pursuant to this ordinance. The School Board shall appropriate impact fee funds only for capital costs of educational facilities designed to provide capacity in order to serve the improvements for which the fees were charged for the benefit of the feepayers.

D. Funds may be used to provide refunds as described in Section Eleven.

E. Funds may be used to make refunds required under any Development Order heretobefore or hereafter issued or entered into by St. Johns County or its municipalities as such refunds pertain to the subject matter of this ordinance.

SECTION EIGHT. St. Johns County Ordinance #87-60 is hereby amended by deleting subsection A from Section Eleven thereof and by adding and substituting the following therefor:

Section Eleven: Refund of Fees Paid

A. If a residential building permit or permit for residential mobile home installation expires without commencement of construction, then the fee payer shall be entitled to a refund, without interest, of the impact fee paid as a condition for its issuance except that the School Board shall retain three percent (3%) of the fee to offset the administrative costs of collection and three percent (3%) of the fee to offset the administrative costs of refunding the fee. The School Board shall adjust these administrative costs whenever determined necessary, according to the results of studies conducted. The fee payer must submit an application for such a refund to the School Board of St. Johns County within 30 days of the expiration of the permit. The application shall include such supporting documentation as the School Board may reasonably require.

SECTION NINE. St. Johns County Ordinance #87-60 is hereby amended by adding a new subsection A(6) to Section Twelve thereof as follows:

Section Twelve: Exemptions and Credits

6. Any other land use that is not capable of creating educational facilities demand during

its useful lifetime as a matter of either law  
or fact.

**SECTION TEN.** St. Johns County Ordinance #87-60 is hereby amended by deleting Section Thirteen therefrom and by adding and substituting the following therefor:

Section Thirteen: Review

The fee schedule contained in Section Seven shall be reviewed by the School Board and the Board of County Commissioners at least once each fiscal biennium.

**SECTION ELEVEN.** St. Johns County Ordinance #87-60 is hereby amended by deleting Section Fourteen therefrom and by adding and substituting the following therefor:

Section Fourteen: Penalty Provision

A violation of this ordinance shall be prosecuted in the same manner as misdemeanors are prosecuted and upon conviction the violator shall be punishable according to law; however, in addition to or in lieu of any criminal prosecution St. Johns County shall have the power to sue in civil court to enforce the provisions of this ordinance. Each day that a violation of this ordinance continues shall constitute a separate offense.

**SECTION TWELVE.** If any section, phrase, sentence or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the

remaining portions thereof.

SECTION THIRTEEN. This Ordinance is passed pursuant to Florida Statute 125.66(3) and shall take effect when a certified copy has been accepted by the postal authorities of the United States for special delivery by registered mail to the Florida Department of State.

PASSED by the Board of County Commissioners of St. Johns County, State of Florida, this 23rd day of April, 1991.

BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA

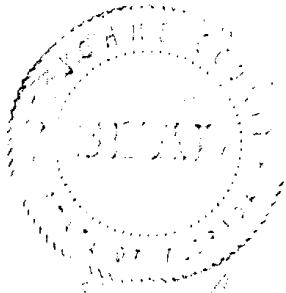
BY: *Conrad A. Havel*  
Its Chairman

ATTEST: CARL "BUD" MARKEL, CLERK

BY: *Carl "Bud" Markel*  
Its Clerk

Adopted April 23, 1991

Effective April 25, 1991



REGISTRATION NO. <b>R 705 220 852</b>		POSTMASTER
Post Office Completion	Reg. Fee \$ <b>4.40</b>	Special Delivery \$ <b>7.65</b>
	Handling Charge \$	Return Receipt \$ <b>1.00</b>
	Postage \$ <b>93</b>	Restricted Delivery \$
	Received by <b>[Signature]</b>	<input type="checkbox"/> Intl
Customer must declare Full value \$ <b>NV</b>		<input type="checkbox"/> With Postal Insurance <input type="checkbox"/> Without Postal Insurance \$25,000 Domestic Ins. Limit
Customer Completion (Please Print)	FROM	<b>Clerk of Court, St Johns Co.</b>
		<b>P.O. Drawer 300</b>
		<b>St. Augustine, FL 32085</b>
	TO	<b>Office of the Secy of State</b>
	<b>The Capitol, Room 2002</b>	
	<b>Tallahassee, FL 32399-0250</b>	

PS Form 3806, RECEIPT FOR REGISTERED MAIL - (Customer Copy) June 1986 (See Information on Reverse)

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4. In your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1.  Show to whom delivered, date, and addressee's address. (Extra charge)  
2.  Restricted Delivery (Extra charge)

3. Article Addressed to: <b>Secretary of State ATTN: L.M. Cloud, Bureau Chief The Capitol, Room 2002 Tallahassee, FL 32301</b>	4. Article Number <b>R 705 220 852</b>
5. Signature - Addressee <b>X</b>	Type of Service: <input checked="" type="checkbox"/> Registered <input type="checkbox"/> Insured <input type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise
6. Signature - Agent <b>X [Signature]</b>	Always obtain signature of addressee or agent and DATE DELIVERED.
7. Date of Delivery <b>APR 26 1991</b>	8. Addressee's Address (ONLY if requested and fee paid)

PS Form 3811, Apr. 1989 DOMESTIC RETURN RECEIPT



FLORIDA DEPARTMENT OF STATE

Jim Smith  
Secretary of State

Room 2002, DIVISION OF ELECTIONS

The Capitol, Tallahassee, Florida 32399-0250  
(904) 488-8427

April 29, 1991

Honorable Carl "Bud" Markel  
Clerk of Circuit Court  
St. Johns County Courthouse  
Post Office Drawer 300  
St. Augustine, Florida 32085-0300

Attention: Amy B. Mulligan, Deputy Clerk

Dear Mr. Markel:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge your letter of April 25, 1991 and second certified copy of St. Johns County Emergency Ordinance No. 91-14 (Special Delivery Registered Mail No. R-705-220-852), which was received and filed in this office on April 26, 1991. The filing date for this ordinance will remain April 25, 1991 when the first copy was received.

Sincerely,

Liz Cloud, Chief  
Bureau of Administrative Code

LC/mb

RECEIVED  
ST. JOHNS COUNTY

'91 APR 30 P1:00

*Con...*  
CLERK OF CIRCUIT COURT