

ST. JOHNS COUNTY ORDINANCE NO. 91 - 26

PUBLIC CAPITAL FACILITIES IMPACT FEE ORDINANCE

AN ORDINANCE AMENDING ORDINANCE 87-59, AS PREVIOUSLY AMENDED, REGARDING PUBLIC CAPITAL FACILITIES IMPACT FEES BY: CLARIFYING THE BOARD'S INTENT; ADDING LEGISLATIVE FINDINGS; MODIFYING A DEFINITION; ADDING A PROVISION REGARDING THE DISCOUNT; MODIFYING THE PROVISIONS REGARDING THE ASSESSMENT AND PAYMENT OF THE FEE; DELETING PROVISIONS REGARDING MUNICIPALITIES OPTING IN; MODIFYING THE PROVISIONS PERTAINING TO USE OF FUNDS, COMPUTATION OF THE AMOUNT OF THE FEE, AND EXEMPTIONS; ADDING PROVISIONS REGARDING AN EXPRESS FINDING OF BENEFIT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Florida Supreme Court has expressly upheld the validity of impact fee ordinances for a variety of capital facilities; and

WHEREAS, the Florida Supreme Court identified certain defects in the St. Johns County educational facilities impact fee ordinance that could also be interpreted to exist in the public capital facilities impact fee ordinance; and

WHEREAS, it has always been the intention of the Board of County Commissioners of St. Johns County, Florida, that all funds collected pursuant to the terms of Ordinance 87-59, as previously and as hereafter amended, shall be expended for the provision of new and additional capacity needed to serve new growth and development and that all funds shall be expended for the benefit of the development for which the fee was paid; and

WHEREAS, the Board of County Commissioners of St. Johns County, Florida hereby determines that it is necessary and desirable to further clarify its prior intentions and to amend its

Ordinance #87-59, as previously amended;

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

SECTION ONE. St. Johns County Ordinance #87-59, as previously amended, is hereby further 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. St. Johns County must expand its public capital facilities 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 Florida Legislature through the enactment of Florida Statutes Sec. 163.3202(3) has sought to encourage St. Johns County to enact impact fees;

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

D. The Florida Supreme Court has expressly upheld the validity of impact fee ordinances for a variety of capital facilities;

E. Each of the types of land development described in Section Seven hereof, will create a need for the construction, equipping, or expansion of public capital facilities;

F. The fees established by Section Seven are derived from, are based upon, and do not exceed the costs of providing additional public capital facilities necessitated by the new land developments for which the fees are levied; and

G. 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 public capital facilities in St. Johns County and is hereby incorporated by reference.

SECTION TWO. St. Johns County Ordinance #87-59, as previously amended, is hereby further amended by deleting Subsection C from Section Two thereof and by adding and substituting the following therefor:

C. This Ordinance shall apply in the unincorporated area of St. Johns County and in the incorporated areas of St. Johns County to the extent permitted by Article VIII, Sec. 1(f) of the Constitution of the State of Florida.

SECTION THREE. St. Johns County Ordinance #87-59, as previously amended, is hereby further amended by deleting Subsection A from Section Five thereof and by adding and

substituting the following therefor:

A. A "feepayer" is a person or his or her successor in interest, commencing a land development activity which may reasonably be expected to impact the County's public capital facilities and which requires the issuance of a building permit or permit for mobile home installation, who pays an impact fee.

SECTION FOUR. St. Johns County Ordinance #87-59, as previously amended, is hereby further amended by deleting Subsection A, Subsection A(3) and Subsection B from Section Seven thereof and by adding and substituting the following therefor:

Section Seven: Computation of the Amount of Public Capital Facilities Impact Fee

A. At the option of the feepayer, the amount of the public capital facilities impact fee may be determined by the following fee schedule or an independent fee calculation study, as provided in paragraph (B) of this Section. The fees contained in this paragraph reflect a discount of 15% from net cost to ensure that no feepayer is charged more than his or her fair share of the cost of public capital facilities needed to serve the new development and to encourage use of this schedule in order to avoid the expenditure of administrative time on the processing of independent fee calculation studies.

(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 the St. Johns County Comprehensive Plan, supporting documents of the St. Johns County Comprehensive Plan, the St. Johns County, Florida, Impact Fee Methodology Report, the St. Johns County Impact Fees General Administrative Guidelines and Procedures Manual, and the St. Johns County Zoning Ordinance. If the County Administrator determines that there is no comparable type of land use on the above fee schedule, then the County Administrator shall determine the fee by considering demographic or other documentation which is available from the St. Johns County Planning Department, the Northeast Florida Regional Planning Council, the Florida Department of Community Affairs, or the Bureau of Economic and Business Research of the University of Florida.

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 County Administrator an independent fee calculation study for the land development activity for which a building permit

or permit for mobile home installation is sought. The independent fee calculation study shall follow the prescribed methodologies and formats for the study established by the St. Johns County, Florida Impact Fee Methodology Report and the Guidelines and Procedures Manual adopted by motion of the Board of County Commissioners of St. Johns County. The documentation submitted shall show the basis upon which the independent fee calculation was made. The County Administrator 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 fee calculation study is not presented, the feepayer shall pay public capital facilities impact fees based upon the schedule shown in paragraph (A) of this section. If an acceptable independent fee calculation study is presented, the County Administrator shall adjust the fee to that appropriate to the particular development.

SECTION FIVE. St. Johns County Ordinance #87-59, as previously amended, is hereby further amended by deleting Section Eight therefrom and by substituting the following therefor:

Section Eight: Assessment and Payment of Fee

A. The person applying for the issuance of a

building permit for additions to and remodeling of an existing structure, shall pay the fee, less any applicable credits as provided for in Section Thirteen, to the County Administrator or his designee prior to the issuance of a building permit. 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 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 appropriate Public Capital Facilities Impact Fee Trust Fund to be held in separate accounts as determined in Section Ten of this ordinance and used solely for the purpose specified in this ordinance.

D. 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 SIX. St. Johns County Ordinance #87-59, as previously amended, is hereby further amended by deleting Subsections (A) and (E) from Section Ten thereof and by substituting the following therefor and by adding the following Subsection Ten (H) thereto:

Section Ten: Use of Funds

A. Funds collected from public capital facility impact fees shall be used solely for the purpose of acquiring, equipping, and/or making capital improvements to public facilities under the jurisdiction of St. Johns County, a municipality within St. Johns County, or the State of Florida, to provide new and additional capacity needed to serve new growth and development and shall not be used for maintenance or operations.

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.

H. The Board of County Commissioners shall appropriate impact fee funds only for capital expenditures for the provision of new and additional capacity needed to serve the use for which the fee was paid.

SECTION SEVEN. St. Johns County Ordinance #87-59, as previously amended, is hereby further amended by adding a new Subsection A(6) and by deleting Subsections B(1)(c)(i) and B(5)

therefrom and by adding and substituting a new Subsection B(c)(i) to Section Twelve thereto as follows:

Section Twelve: Exemptions and Credits

- A. 6. Any other land use that is not capable of creating public capital facilities demand during its useful lifetime as a matter of either law or fact.
- B. 1.c.(i) the construction is completed and accepted by the County, a municipality within the County, or the State, whichever is applicable;

SECTION EIGHT. St. Johns County Ordinance #87-59, as previously amended, is hereby further 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 NINE. 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 TEN. This Ordinance shall take effect immediately upon receipt of official acknowledgement by the Office of the Department of State to the Clerk of the Board of County Commissioners that same has been filed.

PASSED by the Board of County Commissioners of St. Johns County, State of Florida, this 11th day of June, 1991.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

BY: 
Its Chairman

ATTEST: CARL "BUD" MARKEL, CLERK

BY: 
Its Clerk

Adopted June 11, 1991

Effective June 26, 1991

The St. Augustine Record

PUBLISHED EVERY AFTERNOON MONDAY THROUGH FRIDAY, SATURDAY AND SUNDAY MORNING
ST. AUGUSTINE AND ST. JOHNS COUNTY, FLORIDA

STATE OF FLORIDA,
COUNTY OF ST. JOHNS

Before the undersigned authority personally appeared _____
SHERRY L. RAUCH _____

_____ who on oath says that she is

ACCOUNTING CLERK _____ of the St. Augustine Record, a

daily newspaper published at St. Augustine in St. Johns County, Florida: that

the attached copy of advertisement, being a _____
NOTICE OF INTENT _____

_____ in the matter of _____

Public Capital Facilities Inpart Fee _____

_____ in the _____ Court,

was published in said newspaper in the issues of _____

May 22, 1991 _____

Affiant further says that the St. Augustine Record is a newspaper published at St. Augustine, in said St. Johns County, Florida, and that the said newspaper has heretofore been continuously published in said St. Johns County, Florida, each day and has been entered as second class mail matter at the post office in the City of St. Augustine, in said St. Johns County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing the advertisement for publication in the said newspaper.

Sherry L. Rauch

Sworn to and subscribed before me _____
Zoe Ann Johns _____

this 22nd day of May

A.D. 19 91

Zoe Ann Johns
(SEAL) _____ Notary Public
8122193

NOTICE OF INTENT
TO CONSIDER
ENACTMENT OF
ORDINANCE
NOTICE IS HEREBY GIVEN
THAT THE BOARD OF COUNTY
COMMISSIONERS OF ST.
JOHNS COUNTY, FLORIDA,
AT ITS REGULAR MEETING
ON TUESDAY, JUNE 11, 1991,
AT 9:00 O'CLOCK A.M. IN THE
COUNTY AUDITORIUM,
COUNTY ADMINISTRATION
BUILDING, 4020 LEWIS
SPEEDWAY (COUNTY ROAD
16-A) AND U.S. #1 NORTH, ST.
AUGUSTINE, FLORIDA, WILL
HOLD A PUBLIC HEARING TO
CONSIDER THE PASSAGE OF
THE FOLLOWING ORDINANCE:
ST. JOHNS COUNTY
ORDINANCE NO. 91 -
PUBLIC CAPITAL
FACILITIES IMPACT FEE
ORDINANCE
AN ORDINANCE AMENDING
ORDINANCE 87-59 AS
PREVIOUSLY AMENDED, REGARDING
PUBLIC CAPITAL FACILITIES IMPACT FEES
BY CLARIFYING THE
BOARD'S INTENT; ADDING
LEGISLATIVE FINDINGS;
MODIFYING A DEFINITION;
ADDING A PROVISION REGARDING
THE DISCOUNT;
MODIFYING THE PROVISIONS
REGARDING THE ASSESSMENT AND
PAYMENT OF THE FEE; DELETING
PROVISIONS REGARDING MUNICIPALITIES
OPTING IN; MODIFYING THE
PROVISIONS PERTAINING TO USE
OF FUNDS, COMPUTATION OF THE
AMOUNT OF THE FEE, AND
EXEMPTIONS; ADDING PROVISIONS
REGARDING AN EXPRESS FINDING
OF BENEFIT; PROVIDING FOR
SEVERABILITY; AND PROVIDING AN
EFFECTIVE DATE.
The proposed Ordinance is on file in the office of the Clerk of the Circuit Court, St. Johns County, Florida, St. Johns County Administration Building, Lewis Speedway, and may be examined by parties interested prior to said public hearing. All parties having any interest in said Ordinance will be afforded an opportunity to be heard at the public hearing. If a person decides to appeal any decision made by the Board of County Commissioners with respect to any matter considered at the meeting or hearing, he will need a record of the proceedings, and for such purpose he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.
BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA
Carl "Bud" Market, Its Clerk
By Amy Bl. Sullivan, Deputy Clerk
L069 May 22, 1991



FLORIDA DEPARTMENT OF STATE

Jim Smith
Secretary of State

Room 2002, DIVISION OF ELECTIONS

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

June 24, 1991

Honorable Carl "Bud" Markel
Clerk of Circuit Court
St. Johns County Courthouse
Post Office Drawer 300
St. Augustine, Florida 32084

Attention: Yvonne Carter, Deputy Clerk

Dear Mr. Markel:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge your letter of June 17, 1991 and certified copies of St. Johns County Ordinance No's. 91-26 & 91-27, which were filed in this office on June 24, 1991.

Sincerely,

Liz Cloud, Chief
Bureau of Administrative Code

LC/mb

RECEIVED

'91 JUN 26 P3:42

Ca.
CLERK

RECEIVED

'91 JUN 26 P3:42