

ORDINANCE 2005 - 56

AN ORDINANCE AMENDING ORDINANCE 87-17, AS AMENDED, KNOWN AS THE "IMPACT FEE ORDINANCE"; SPECIFICALLY AMENDING SECTIONS 1, 4, 5, 9, and 10, TO PROVIDE FOR EDUCATION IMPACT FEES; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the School Board of Nassau County has developed a long-range capital outlay needs assessment, establishing those needs on the basis of growth projected by Nassau County, Florida; and

WHEREAS, the School Board of Nassau County has determined that it has insufficient existing capital outlay funding to meet its projected capital outlay needs, which are driven by growth in Nassau County, Florida; and

WHEREAS, the School Capacity Solution Committee, consisting of representatives of the Nassau County School Board, representatives of the Board of County Commissioners, representatives of the Northeast Florida Regional Council, developers, engineers, builders and owners of residential real estate properties, held public meetings to cooperate in developing a solution for the deficiencies in school capacity, which are expected to occur as the population of Nassau County grows; and

WHEREAS, the School Capacity Solution Committee, by consensus, established that it would best serve the public interest to have a solution for the projected deficiencies

which is reasonable, uniformly applied, and implemented at the time building permits are issued for residential dwellings; and

WHEREAS, the members of the School Capacity Solution Committee agreed to participate in the development of such a solution; and

WHEREAS, it was the consensus of the School Capacity Solution Committee that the Nassau County School Board could elect to independently address projected school capacity deficiencies by requesting that the Nassau County Board of County Commissioners adopt a school impact fee schedule as authorized by Nassau County Ordinance No. 87-17, as amended; and

WHEREAS, the Nassau County School Board contracted with Fishkind & Associates, Inc., an economic consulting firm, to conduct a school capacity financing analysis to examine and determine alternative means of funding deficiencies in school capacity; and

WHEREAS, the Nassau County School Board and the Nassau County Board of County Commissioners have jointly met in public meetings and have considered and reviewed the Nassau County School Board's funding deficiencies in school capacity including the implementation of school impact fees; and

WHEREAS, the implementation of education/school impact fees upon all new residential development in Nassau County would equitably assess part of the funding needs for future capital outlay against the growth, which necessitates said future capital outlay; and

WHEREAS, Ordinance 87-17, Section 1. Findings and Declarations, (10), which originally adopted impact fees for Nassau County, including an education impact fee, indicated that the amount of the education impact fee was to be stated as zero (0). It further stated that upon receipt of a study to be conducted by the School Board, and consequent recommendation, as well as the holding of a public hearing or hearings on said study, that the Nassau County Board of County Commissioners would evaluate the study and the fee schedule. This proposed Amendment to Ordinance 87-17 fulfills these requirements by providing the required information and process;

WHEREAS, the Board of County Commissioners finds that it is in the best interest of the citizens of Nassau County to further amend Ordinance 87-17, as amended.

NOW, THEREFORE, BE IT ORDAINED this 25th day of July, 2005, by the Board of County Commissioners of Nassau County, Florida, that Ordinance 87-17, as amended, shall be further amended as follows:

1. SECTION 1. Findings and declarations.

(1) The Board of County Commissioners finds that new development in the County requires additional governmental services and facilities, including law enforcement, education, road systems, fire and rescue, parks and recreation and administrative capital and equipment attributable to new construction. It is the policy of the Board that new development should be permitted to occur only where an adequate level of governmental services and facilities can be provided.

(2) It is the policy of the Board that new development should pay its prorata share of the capital costs related to the additional governmental services and facilities to accommodate that new development.

(3) A transportation study and impact fee analysis was undertaken for Amelia Island and presented to the Board of County Commissioners.

(4) The Board of County Commissioners has received information from its staff relative to anticipated expansion of various systems and the capital costs thereof.

(5) The Board conducted workshop sessions and public hearings as to the specific impact fees and received specific reports as to the fees which have been adopted by the Board.

(6) The Board received testimony, pursuant to the transportation study, which indicates that the transportation impact fee must be island wide, for both the incorporated and unincorporated areas on the island.

(7) The Board received testimony, pursuant to the transportation study, which indicates that the transportation impact fee must be island wide, for both the incorporated and unincorporated areas on the island only.

(8) It is the purpose of this ordinance to require new development to bear its prorata share of the capital costs related to the additional governmental services made necessary by such new development and to avoid paying those costs from the County's General Fund.

(9) The Board hereby finds that impact fees provide a reasonable method of regulating new development in Nassau County to ensure that such new development pays its share of the capital costs of governmental services and facilities necessary to accommodate the new development.

~~(10) The board received testimony from the Nassau County School Board and Superintendent as to the need for an education impact fee and the school board and superintendent requested that the board of county commissioners impose an~~

~~education impact fee. In addition, the superintendent's office provided the board with a proposed impact fee. The board finds that the fees and study, utilized by the school board require modification and the board has requested that the school board conduct a further study and hold a public hearing or hearings regarding said study and proposed fees. The fee for an education impact fee shall be indicated as zero (0) in the attached Schedule "B" and no fees shall be imposed as of the date of this ordinance [article]. Upon receipt of the study and recommendation, the board shall evaluate the study and the fee schedule attached thereto.~~

~~(11) The board received testimony, from the school board, that indicates that the education impact fee, if adopted, must be countywide for both the incorporated and unincorporated areas.~~

~~(12) (10) A recreational impact fee study for Nassau County was undertaken by the Northeast Florida Regional Council (NEFRC) and presented to the Board of County Commissioners.~~

~~(13) (11) The Board then received testimony, pursuant to the recreational impact fee study, that regional park impact fees be County-wide for the unincorporated areas of Nassau County, but that the community park impact fee would vary by benefit district. However, the fees for the unincorporated area of Amelia Island would be consistent with that of Yulee/Nassauville because there will be shared use of off-island facilities for community parks.~~

~~(14) (12) The additional impact imposed by new development upon the capital costs of providing governmental services occurs at the time that development of the property, as defined herein, takes place.~~

~~(15) (13) It is the intent of the Board that the impact fees imposed pursuant to this ordinance be used to pay for those capital costs related to the additional governmental services required for new development in Nassau County.~~

~~(16) (14) The Board hereby finds that there exists a rational relationship between the capital costs of providing governmental services and the impact fees imposed on new development by this ordinance.~~

~~(17) (15) This Ordinance is intended to implement and be consistent with the Nassau County Comprehensive Plan.~~

~~(18) (16) The cities shall collect the applicable fees as set forth herein and said fees shall be paid to the Board to be~~

deposited in the required accounts. The fees shall be collected as set forth herein.

~~(19) The impact fee figures set forth in Schedule "A" shall, at this time, be zero (0) for all categories set forth in said schedule. The Board, pending further study, may address specific figures at the time of the mandatory six (6) months review.~~

(17) Upon the agreement of the School Capacity Solution Committee, the School Board authorized an impact fee study to be completed by Fishkind & Associates, Inc., on September 29, 2004, entitled "Impact Fees for Educational Facilities", and then submitted same to the Board of County Commissioners.

(18) As set forth in the impact fee study, the student capacity of the public education system available as of the adoption date of this Ordinance must be expanded in order to maintain the public education system's level of service within the County, as of such date, if new residential development is to be accommodated without a reduction in such level of service.

(19) New residential development should assume a fair share of the cost of providing adequate capital facilities for public schools.

(20) School impact fees are an equitable and appropriate means to help finance the capital costs of additional and expanded school facilities needed to serve new residential development.

(21) Pursuant to Florida Statutes, Section 1013.33, the School Board and the County are required to coordinate the planning of public educational facilities with the planning of new residential development and the providing of other necessary services.

(22) Florida Statutes, Section 1013.33(10), requires public education facilities to be consistent with the County's Comprehensive Plan, adopted under Part II of Florida Statutes, Chapter 163.

(23) The implementation of an education impact fee that requires new residential development to contribute its fair share of the cost of capital improvements to the public educational system, necessitated by growth caused by such development, promotes the general welfare of all County residents.

(24) The provision of public educational facilities which are adequate for the needs of growth caused by new residential development, promotes the general welfare of all County residents and constitutes a public purpose.

(25) The imposition of an education impact fee that requires new residential development to contribute its fair share of the cost of required capital improvements and additions to the public educational system serves as a regulatory tool that promotes the timing and management of growth in the County.

(26) As set forth in the Impact Fee Study, the School Board has determined that ad valorem tax revenue and other revenues will not be sufficient to provide the capital improvements and additions to the public educational system, which are necessary to accommodate new residential development.

(27) The School Board has adopted a Resolution in which it has requested that the Board of County Commissioners adopt an Ordinance imposing an education impact fee on new residential development in accordance with the impact fee study by which such new residential development will contribute its fair share of the cost of capital improvements and additions to the public educational system, which are necessary to accommodate such new residential development.

(28) The Board received testimony from the School Board that indicates that the education impact fee must be County-wide for both the incorporated and unincorporated areas.

(29) Any improvements and additions to the public educational system that reduce or eliminate any deficiencies in the level of service thereof within the County existing as of the adoption date of the Ordinance, shall be financed by revenue sources of the School Board other than education impact fees.

(30) The impact fee study provides an adequate and lawful basis for the adoption and imposition of education impact fees in accordance with this Ordinance.

2. SECTION 4. Definitions.

As used in this article, the following words and terms shall have the meaning ascribed thereto:

Arterial road: A road which is a main traffic artery carrying relatively high traffic volumes for relatively long distances. Generally an arterial road is greater than two (2) lanes in width, and longer than two (2) miles in distance.

Benefit district: Those districts as set forth in Exhibit "B" attached to Ordinance No. 2000-23 and made a part thereof.

Board: The Board of County Commissioners of Nassau County, Florida.

Building: Any structure either temporary or permanent having a roof and used for the enclosure or shelter of persons, vehicles, goods, merchandise, equipment, materials, or property of any kind excluding agricultural building as stated in this article.

Building Official: The person authorized to interpret and enforce the requirements of this Ordinance.

Building Permit: Shall mean an official document or certificate issued by a municipality or the County under the authority of Ordinance or law that authorizes the construction or installation of any building, or authorizes the moving on and tying down of a structure or building that does not require a local permit in order to be constructed, such as a manufactured home or a mobile home.

Capital cost: Any expenditure which, under generally accepted accounting principals for local governments, would be considered a capital expense.

Capital improvement for roads: Includes transportation planning and the right-of-way acquisition, engineering, and construction of any project eligible for inclusion as a road project, but does not include maintenance as defined in Florida Statutes, Section 334.03(24).

Capital improvement for schools: Shall mean land, building, furniture, site development, equipment, or facilities for public schools necessary to accommodate students, faculty, administrators, staff, and the activities of the educational programs and services for each student, as identified in the adopted educational facilities plan of the School Board.

City: Shall mean the City of Fernandina Beach.

Collector road: A road which carries traffic from local roads to arterial roads. Collector roads have more continuity, carry higher traffic volumes, and provide more access than local roads. Generally, collector roads are two-lane facilities and

generally operate at lower capacity and operating speeds than do arterial roads.

County: Shall mean Nassau County.

Development: Any improvement to real property for which the issuance of a permit is required.

Dwelling unit: Single-family and multi-family residential units, attached and detached dwellings, houses of conventional construction, mobile homes, manufactured housing, and all other structures used for a permanent residence or for dwelling purposes, regardless of whether occupied by an owner or tenant. The term shall not include hotels, motels, tourist or trailer camps, or condominiums allowing a rental of less than three (3) months.

Feepayer: A person commencing impact generating land development activity who is obligated to pay an impact fee in accordance with the terms of this article.

Generation of traffic: Shall include both the production and attraction of traffic.

Gross floor area of a building: Shall mean the sum (in square feet) of the area of each floor level that is within the principal outside faces of exterior wall. Included are all areas that have floor surfaces with clear standing headroom (six (6) feet to six (6) inch minimum) regardless of their use. However, unroofed areas and unenclosed roofed-over spaces, except those contained within the principal outside faces of exterior walls shall be excluded.

Land: Shall have the same meaning as set forth in Section 380.031(6), Florida Statutes.

Person: An individual, corporation, business trust, estate, trust, partnership, association, two (2) or more persons having a joint or common interest, or any other entity.

Road: Shall have the same meaning as set forth in Section 334.03(23), Florida Statutes.

Site related improvements: Capital improvements and right-of-way dedications for direct access improvements to the development in question.

School Board: Shall mean the Nassau County School Board.

Towns: Shall mean the Towns of Hilliard and Callahan.

Trip: A one-way movement of vehicular travel from an origin (one trip end) to a destination (the other trip end). For the purposes of this article, trip shall have a meaning which it has in commonly accepted traffic engineering practice.

3. SECTION 5. Imposition of impact fees; semi-annual adjustments; time of payment.

(a) *Fees:* The following impact fees are hereby imposed upon all new development in Nassau County, Florida: See ~~Composite Exhibit "A" attached hereto Ordinance No. 2000-23~~ and made a part thereof. The obligation of payment of impact fees shall run with the land.

(b) *Semi-annual adjustments:* The fee imposed in subsection (a) shall be reviewed semi-annually and may be adjusted semi-annually by Resolution of the Board based on actual growth in the incorporated and unincorporated areas of the County, whichever is applicable, and increases or decreases in the capital costs of providing governmental services to accommodate such growth.

(c) *Time of payment:* Impact fees imposed on all new development shall be paid to the County or the City or Towns as a condition to the issuance of a building permit or move-on permit by the County or ~~cities~~ City or Towns, or at an earlier stage pursuant to agreement by the County. No building permit or move-on permit shall be issued by the County or the ~~cities~~ City or Towns without the payment of said fees. The county commission or School Board may accept in-kind contribution of land or capital facilities for public use. Credit for any in-kind contribution shall be on a fair market value basis as of the date the County Commission accepts the offer of such contribution. The fair market value of any land accepted as an in-kind contribution shall be based upon an appraisal of its highest and best use then allowed under its current land use designation. Such appraisal shall be paid for by the donor. See also, Section 10, Additional Credits.

(d) Any person who, prior to the effective date of this article, agreed with the Board or School Board as a condition of development approval to pay impact fees, shall be responsible for the payment of the fees under the terms of

such agreement, and the payment of such fees by the developer will be offset against any impact fees otherwise due at later stages of the land development activity for which the fee was paid.

(e) The ~~cities~~ City and Towns shall, each ~~month~~ quarter, tender the requisite amount to the Board to be deposited in the specific accounts. The ~~cities~~ City and Towns and the Board may, upon mutual agreement, alter the procedures for the payment of impact fees.

4. SECTION 9. Use of funds.

(a) Any fees collected under this article are expressly designated for the accommodation of impacts reasonably attributable to the proposed development as hereinafter provided in this section.

(b) There is hereby established the Nassau County Impact Fee Ordinance Trust Fund for the purpose of insuring that the fees collected pursuant to this article are designated for the accommodation of impacts reasonably attributable to the proposed land development activity. The trust fund shall be divided into seven (7) trust accounts, one (1) for the transportation component, one (1) for the recreation and parks component, one (1) for the law enforcement component, one (1) for the fire rescue component, one (1) for the education component, and one (1) for the administrative component of the fee. Said impact fee trust fund shall be administered by the Clerk.

(c) The Board shall be entitled to retain ten (10) percent of all impact fee funds it collects as an administrative fee to offset the costs of administering this article except for the education component which shall be administered according to Sections (f) and (k) through (t). An accounting of retained fees shall be provided to the Board for review and appropriation every six (6) months.

(d) Proceeds collected from the road impact component of the fee and all interest accrued on such funds shall be used solely for the purpose of capital improvements to and expansion of transportation facilities associated with the arterial, major collector, and minor collector road network in Nassau County, within the benefit district from which the fees have been collected, and in a manner consistent with the principle set forth in *Contractors & Builders Association v City of Dunedin*, 329 So. 2d 314 (Fla. 1976), *Hollywood, Inc. v. Broward County*, 431 So. 2d 606 (Fla. 4th DCA 1983) cert. denied 440 So. 2d 352 (Fla. 1983), and *Homebuilders and Contractors Association of Palm Beach v. Board of County Commissioners of Palm Beach County*, 446 So. 2d 110 (Fla. 4th DCA 1984) cert. denied, 451 So. 2d 848 (Fla. 1984), and otherwise consistent with all requirements of the

Constitution of the United States and State of Florida and all applicable laws. Transportation impact fees shall be collected in the unincorporated portions of the benefit districts shown in Exhibit "B", except Benefit District 501, and the transportation impact fees shall be collected within the district, which is the incorporated City of Fernandina Beach.

(1) No funds shall be used for periodic or routine maintenance as defined in F.S. § 334.03(24).

(2) The transportation fee collected within Benefit District 501, as delineated on the attached Exhibit "B", shall be collected as follows: The City of Fernandina Beach shall insure that the person or entity required to pay the transportation impact fee provides the form to the County Building Department, pays the fee, and provides the information necessary for the determination of the fee and payment of the fee(s) to the City of Fernandina Beach. At least monthly, the City of Fernandina Beach shall provide to the County Building Official: a list of each fee collected, or if not collected, the reason(s) for non-collection; the permit number issued; and documentation of the square footage of the proposed development and the calculation of the fee in such amounts as customarily charged by the County for such transportation impacts; as well as the remittance of all such fees collected to be then deposited by the Building Official in the Nassau County Impact Fee Ordinance Trust Fund.

~~The education impact fee, if adopted, shall be collected in the incorporated and unincorporated areas within benefit districts. The cities shall collect said fees as set forth in the article, and said fees shall be paid to the board.~~

The rescue impact fee shall be collected in the unincorporated areas within Benefit Districts 502, 503, 504, and 505.

(e) The regional park and community park impact fees shall be collected in the unincorporated areas within Benefit Districts 502, 503, 504, and 505. Proceeds collected from the regional park impact fees and all interest accrued on such funds shall be used only for regional parks. Proceeds collected from the community park impact fees and all interest accrued on such funds shall be used for community parks of benefit to the benefit district in the unincorporated area in which the development is located, except that the community park impact fee funds collected in a benefit district may be used in an adjacent benefit district based upon the shared use of community park facilities upon the recommendation of the ~~Planning Director~~ Growth Management Coordinator or his/her designee and the approval of the Board Of County Commissioners. In locating and constructing recreation facilities within each benefit district, the County shall be guided by the standards of the Nassau County Comprehensive Plan. The benefit districts are those shown on the map attached hereto as Exhibit "B" and made a part hereof.

(f) Proceeds collected from the law enforcement, education, and administrative facilities components of the fee and all interest accrued on such proceeds shall be used for capital facilities intended to meet law enforcement, education, and administrative facilities needs respectively within each benefit district from which the fee is collected. Benefit districts are those shown on Exhibit "B". Proceeds collected from the fire and rescue component of the fee and all interest accrued on such proceeds, may be used for capital facilities intended to meet fire and rescue needs outside of the particular benefit district within which it is collected. The use of said proceeds outside of the district shall be approved by the Board of County Commissioners upon recommendation of the Fire Chief or his/her designee and the concurrence of the County Attorney. Proceeds collected from the law enforcement, ~~and~~ administrative facilities, and education components of the fee and all interest accrued on such proceeds, may be used to meet law enforcement, ~~and~~ administrative facilities, and Capital Improvements for Schools needs outside of the particular benefit district within which they are collected. The use of said proceeds, except for the proceeds from the education component, outside of the district shall be approved by the Board of County Commissioners upon recommendation of the Sheriff or his/her designee for the law enforcement impact fees, ~~and~~ the County Administrator or his/her designee for the administrative facilities impact fees and the concurrence of the County Attorney. The use of the proceeds from the education component outside of the district shall be approved by the School Board upon recommendation of the Superintendent of Schools.

(g) Any proceeds in each of the trust accounts on deposit, not immediately necessary for expenditure, shall be invested in interest bearing assets. All income derived from these investments shall be retained in the applicable trust account.

(h) Each year, at time(s) designated by the Board Of County Commissioners, The County Administrator or designee of the Board Of County Commissioners, after consultation with the various agencies, including the ~~cities~~ City and the Towns (if applicable), shall propose appropriations to be spent from the trust accounts to the Board of County Commissioners except from the education trust account. The proposal for appropriations shall be in written form and a copy of said proposal shall be submitted to the appropriate official or officials in the ~~cities~~ City and Towns. Said written proposal shall be submitted to the appropriate officials prior to the County Administrator's or his/her designee's submitting the proposal to the Board. The City of Fernandina Beach, through the City Manager, shall be notified as to when the Board will formally consider the proposal, and the City shall have a right to be heard as to the proposal for expenditure of transportation funds and may submit independent analysis. After review of the County Administrator's or his/her

designee's recommendations, the Board of County Commissioners shall either approve, modify, or deny the recommended expenditures of the trust account monies. Any amounts not appropriated from the trust accounts together with any interest earnings shall be carried over in the specific trust account to the following fiscal period, except for the education trust account which shall be administered according to Sections (f) and (k) through (t).

(i) Any fees collected except for the education impact fees shall be returned to the fee payer or his successor in interest if the fees have not been spent within six (6) years from the date the building permit or move-on permit for the development was issued, along with federal rate interest. Provided, however, that the Board of County Commissioners may by Resolution extend for up to three (3) years the date at which fees must be refunded. Such an extension shall be made upon a finding that within such three (3) year period, specified capital improvements are planned and evidenced by the adoption and incorporation into a capital improvement plan, that the improvements are reasonably attributable to the fee payer's land development activity, and that the fees collected which have not been spent are committed for capital improvements which shall be constructed within the next three (3) years. Fees shall be deemed to be spent on the basis of the first fee collected shall be the first fee spent. The refund of fees shall be undertaken through the following process:

(1) A refund application shall be submitted within one (1) year following the end of the sixth (6th) year from the date on which the building permit or move-on permit was issued on the proposed development. If the time of refund has been extended pursuant to section 76-159, the refund application shall be submitted within one (1) year following the end of this extension. The refund application shall include the following information:

- a. A copy of the dated receipt issued for payment of the fee;
- b. A copy of the building permits;
- c. A copy of the receipt issued by the County for payment of the fee; and, if applicable;
- d. Evidence that the applicant is the successor in interest to the fee payer.

(2) Within twenty (20) days of receipt of the refund application, the Clerk or his/her designee shall determine if it is complete. If the Clerk determines the application is not complete; he shall send a written statement specifying the deficiencies by mail to the person submitting the application. Unless the deficiencies are corrected, the Clerk shall take no further action on the refund application.

(3) When the Clerk or his/her designee determines that the refund application is complete, he shall review it within twenty

(20) days, and shall approve the proposed refund if he determines the fee payer or his successor in interest has paid a fee which the County has not spent within the period of time permitted under this section. The refund shall include the fee paid plus federal rate interest.

(4) Any fee payer or his successor in interest may appeal the Clerk's decision on a refund application by filing a petition with the Board of County Commissioners within thirty (30) days of a decision by the Clerk.

(j) Funds shall be used exclusively for capital improvements or expansion within the road impact fee district, including district boundary roads, as identified in Exhibit "B" hereof; from which the funds were collected or for projects in other road impact districts which are of benefit to the road impact district from which the funds were collected. Funds shall be expended in the order in which they are collected.

(k) The education impact fee shall be collected in the incorporated and unincorporated areas within benefit districts. The City and the Towns shall collect said fees as set forth in this section, and said fees shall be paid to the School Board.

(l) Education impact fees shall, upon receipt by the County, be deposited into the Education Impact Fee Fund. The education impact fees shall remain in the fund until transferred to the School Board pursuant to this section.

(1) Quarterly, the County shall transfer to the School Board, the education impact fees collected and deposited into the fund during the previous quarter. All interest earned on the School Impact Fee Fund shall be income to the School Board. Compensation, timing, and procedures for disbursement of such compensation shall be addressed in an Interlocal Agreement.

(2) The education impact fee amount transferred by the County to the School Board shall be reduced by a sum of five (5) percent reflecting the administrative cost to the County and five (5) percent reflecting the administrative cost to the Clerk of the Court.

(m) The education impact fees shall, upon receipt by the City and Towns, be deposited into funds established by the City and Towns for education impact fees. The City's and Towns' impact fees shall remain in these funds until transferred to the School Board pursuant to this section.

(1) Quarterly, the City and the Towns shall transfer to the School Board the education impact fees collected and deposited into the fund during the previous quarter. Compensation, timing, and procedures for disbursement of such compensation shall be addressed in interlocal agreements.

(2) The education impact fee amount transferred by the City and Towns to the School Board shall be reduced by a sum to be set out in an Interlocal Agreement between the School Board, the County, the City and the Towns, reflecting the administrative cost to the City and Towns.

(n) The education impact fee monies transferred to the School Board from the County, the City, and the Towns shall be deposited into an account established by the School Board and held and maintained separate from all other accounts of the School Board.

(o) The monies transferred from the Education Impact Fee Funds shall be used by the School Board solely to provide school facilities which are necessitated by new residential construction, consistent with and as set forth in subsections (p) and (q) of this section and shall not be used for any expenditure that would be classified as an operating expense, routine maintenance, or repair expense. It is the intent of the Board that all school facilities projects funded by education impact fee monies be economically viable without failing to meet the established level of service standards. The School Board shall establish and implement necessary accounting controls to ensure that all education impact fee funds are properly deposited, accounted for, and appropriated in accordance with this section and any other applicable legal requirements.

(p) The School Board shall use transferred Education Impact Fee Fund monies for the following capital improvements for schools:

- (1) Costs of school sites;
- (2) School building costs;
- (3) Relocatable classroom costs;
- (4) Building contents costs;
- (5) Costs of non-building improvements; and
- (6) Costs of vehicles

(q) Additionally, Education Impact Fee Fund monies may be used for the following:

(1) Repayment of monies borrowed from any budgetary fund of the School Board subsequent to the effective date of this Ordinance, where such borrowed monies were used to fund growth necessitated capital improvements to school facilities as provided herein; provided, however, that the intent of this provision is not to allow the use of school impact fees as a pledge for any bonds;

(r) The School Board shall provide an annual accounting to the County, the City, and the Towns in a report containing a summary

of the school impact fees transferred to the School Board during the previous year and a detailed description of the uses and expenditures for which the net school impact fee revenue was expended during the preceding year. At a minimum, the report shall contain the following:

- (1) The projects funded in whole or in part with the school impact fee funds;
- (2) The location of the projects;
- (3) The capacity in numbers of students served by the projects;
- (4) The square footage of each project;
- (5) The use of other funding sources; and
- (6) The ratio of existing need to the need created by new residential construction subsequent to the enactment of this Ordinance.

(s) Any fees collected for the education component of the impact fee Ordinance shall be returned to the fee payer or his successor in interest if the fees have not been spent within six (6) years from the date the building permit or move-on permit for the development was issued, along with federal rate interest. Provided, however, that the School Board may by Resolution extend for up to three (3) years the date at which fees must be refunded. Such an extension shall be made upon a finding that within such three (3) year period, specified capital improvements are planned and evidenced by the adoption and incorporation into a capital improvement plan, that the improvements are reasonably attributable to the fee payer's land development activity, and that the fees collected which have not been spent are committed for capital improvements which shall be constructed within the next three (3) years. Fees shall be deemed to be spent on the basis of the first fee collected shall be the first fee spent. The refund for fees shall be undertaken through the following process:

(1) A refund application shall be submitted within one (1) year following the end of the sixth (6th) year from the date on which the building permit or move-on permit was issued on the proposed development. If the time of refund has been extended pursuant to section 76-159, the refund application shall be submitted within one (1) year following the end of this extension. The refund application shall include the following information:

- (a) A copy of the dated receipt issued for payment of the fee;
- (b) A copy of the building permits;

(c) A copy of the receipt issued by the County for payment of the fee; and, if applicable;

(d) Evidence that the applicant is the successor in interest to the fee payer.

(2) Within twenty (20) days of receipt of the refund application, the School Board or its designee shall determine if the application is complete. If the School Board determines the application is not complete, it shall send a written statement specifying the deficiencies by mail to the person submitting the application. Unless the deficiencies are corrected, the School Board shall take no further action on the refund application.

(3) When the School Board or its designee determines the refund application is complete, they shall review it within twenty (20) days, and shall approve the proposed refund if it is determined the fee payer or his successor in interest has paid a fee which the School Board has not spent within the period of time permitted under this section. The refund shall include the fee paid plus federal rate interest.

(t) The School Board shall be responsible for the costs incurred by the County or the City or Towns for the defense of the Education Impact Fee, including, but not limited to, attorney's fees and costs.

5. SECTION 10. Additional credits.

(a) Any person who shall initiate any impact-generating activity may apply for a credit against any fee for transportation, education, recreation, law enforcement, fire and rescue, or administrative facility impacts proposed to be paid pursuant to the provisions of this article for any contribution, payment, construction, or dedication of land accepted and received by Nassau County for education, transportation, recreation, law enforcement, fire and rescue, or administrative facilities, including, but not limited to, any contribution, payment construction or dedication made pursuant to a development order issued by Nassau County pursuant to its location development regulations or Section 380.06, Florida Statutes, any development agreement entered into by Nassau County, or any additional development requirement imposed by the Florida Land and Water Adjudicatory Commission on a development of regional impact. Credits shall be made for any contribution or payment for studies used to access the need for fees imposed by this article.

(b) For any credit against any transportation fee proposed to be paid, the contribution, payment, construction, or dedication shall

be credited if the contribution, payment construction, or land meets a roadway facility need or expansion as recommended by the County Building Official and approved by the Board or provides a capital road improvement which expands the capacity of the County's road network which is necessitated by the proposed land development.

(c) For any credit against any recreation fee proposed to be paid, the contribution, payment, construction, or dedication shall be credited under the following conditions:

(1) A credit of one hundred (100) percent of the fair market value shall be provided for any contribution, payment, construction, or dedication for a park facility.

(2) A credit of thirty (30) percent of the fair market value shall be provided for any contribution, payment, construction, or dedication of an on-site private recreation facility, which substantially reduces the development's impact upon the county's capital needs for parks.

(d) For any credit against any law enforcement fee proposed to be paid, the contribution, payment, construction, or dedication shall be granted if it substantially reduces the development's impact upon the County's capital needs for law enforcement.

(e) For any credit against any fire services proposed to be paid, the contribution, payment, construction, or dedication of land shall be granted if it substantially reduces the development's impact upon the County's capital needs for fire facilities.

(f) For any credit against any administrative facilities fee proposed to be paid, the contribution, payment, contribution, or dedication shall be granted if it substantially reduces the needs for administrative facilities.

(g) Notwithstanding the provisions of this section, if a development order issued by Nassau County pursuant to its local development regulations or Section 380.06, Florida Statutes, or a development agreement entered into by Nassau County contains provisions governing credit available for any contribution, payment, construction, or dedication of land accepted and received by Nassau County for education, transportation, recreation, law enforcement, fire and rescue, or administrative facilities, the provisions of such

development order or agreement shall prevail over the provisions of this article in the case of any conflict.

(h) The credit shall be in an amount equal to the market value of the land or the estimated costs of the contribution, payment, or construction at the time a building permit is proposed to be issued for the impact generating activity.

(i) The determination of any credit shall be undertaken through the submission of an application for credit agreement, which shall be submitted to the County Building Official or his/her designee. The application for credit agreement shall include the following information:

(1) If the proposed application for credit agreement involves credit for the dedication of land:

- a. A drawing and legal description of the land;
- b. The appraised fair market value of the land at the date a building permit is proposed to be issued for the impact generating activity, prepared by a professional real estate appraiser who is a member of the Member Appraisal Institute (MAI) or who is a member of Senior Residential Appraisers (SRA), and if applicable;
- c. A certified copy of the development order in which the land was agreed to be dedicated.

(2) If the proposed application for credit agreement involves construction:

- a. The proposed plan of the specific construction prepared and certified by a duly qualified and licensed Florida engineer, architect, or contractor;
- b. The projected costs for the suggested improvement, which shall be based on local information for similar improvements, along with the construction timetable for the completion thereof. Such estimated cost shall include the cost of construction or reconstruction, the cost of all labor and materials, the cost of all lands, property, rights, easements, and franchises acquired, financing charges, interest prior to and during construction and for one (1) year after completion of construction; cost of plans and specifications, surveys of estimates of costs and revenues, cost of professional services, and all other expenses necessary or incident to determining the feasibility or practicability of such construction or reconstruction.

(3) If the proposed application for credit agreement involves a credit for any other contribution or payment:

- a. If applicable, a certified copy of the development order in which the contribution or payment was agreed;

- b. If payment has been made, proof of payment; or
- c. If payment has not been made, the proposed method of payment.

(j) Within thirty (30) days of receipt of the proposed application for credit agreement, the County Building Official or his/her designee shall determine if the application is complete. If it is determined that the proposed agreement is not complete, the County Building Official or his/her designee shall send a written statement to the applicant outlining the deficiencies. The County Building Official or his/her designee shall take no further action on the proposed application for credit agreement until all deficiencies have been corrected or otherwise settled.

(k) Once the County Building Official or his/her designee determines the proposed application for credit is complete, he shall review it within thirty (30) days with the County Attorney, and they shall advise the Board as to whether the proposed credit meets the standards of the article. The County Building Official shall also provide the applicant with a copy of the recommendations, and the applicant may provide the Board with written comments or appear before the Board, or both.

(l) If the application for credit agreement is approved by the Board, a credit agreement shall be prepared by the County Attorney and signed by the applicant and the County. It shall specifically outline the contribution, payment, construction, or land dedication, the time by which it shall be completed, dedicated, or paid, and any extensions thereof, and the dollar credit the applicant shall received for the contribution, payment, construction, or land.

(m) Credits against the amount of education impact fees due from new residential construction may be provided for through the donation of land and/or the provision, by an applicant, of school facilities, if such land or facilities assist in meeting the demand generated by the new residential construction, and if either:

(1) The costs of such land or school facilities have been included in the education impact fee calculation; or


(2) The land donated or facility provided is determined by the School Board to be a reasonable substitute for the school impact fee due.

(n) Requests for credits against the education impact fee due shall be submitted at the time of filing of the plat application, the application for re-zoning, or the application for development of regional impact. No donations of land

and/or the provision of school facilities by an applicant will occur without the applicant's receiving formal approval from the School Board.

6. EFFECTIVE DATE: This Ordinance shall take effect on August 24, 2005, upon a certified copy being filed with the Office of the Secretary of State. Ordinance 87-17, as previously amended, shall remain valid and effective until such time as this Ordinance becomes effective.

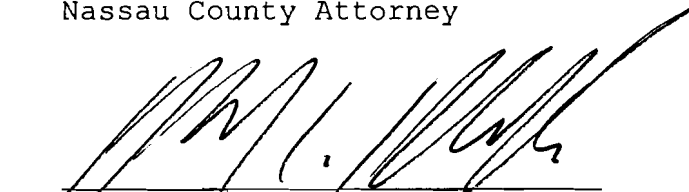
BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA


ANSLEY N. AGREE
Its: Chairman

ATTEST:


JOHN A. CRAWFORD
Its: Ex-Officio Clerk

Approved as to form by the
Nassau County Attorney


MICHAEL S. MULLIN

"Exhibit A"

IMPACT FEE UPDATE						
Land Use Type		Trans.	Fire/EMS	Admin.	Police	TOTAL
RESIDENTIAL						
Single Family Detached		\$1,429.51	\$121.01	\$231.49	\$149.85	\$1,931.86
Multi-family		\$984.38	\$109.55	\$209.57	\$135.66	\$1,439.16
Condominium/Townhouse		\$875.33	\$108.17	\$206.94	\$133.95	\$1,324.39
Hotel/Motel		\$866.01	\$110.01	\$210.45	\$136.22	\$1,322.69
Other Residential		\$1,429.51	\$121.01	\$231.49	\$149.85	\$1,931.86

NON-RESIDENTIAL (per 1,000 Sq. Ft. unless otherwise stated)						
Industrial		\$1,073.90	\$73.16	\$139.95	\$90.59	\$1,377.60
Warehouse		\$765.30	\$35.26	\$67.46	\$43.66	\$911.68
Mini-warehouse		\$385.74	\$10.88	\$20.81	\$13.47	\$430.90
Medical Office		\$2,449.54	\$189.85	\$363.18	\$235.09	\$3,237.66
General Offices (0-50K sq. ft.)		\$1,489.66	\$200.58	\$383.72	\$248.39	\$2,322.35
General Offices (50-100K sq. ft.)		\$1,154.47	\$169.37	\$324.01	\$209.74	\$1,857.59
General Offices (100-200K sq. ft.)		\$982.80	\$143.02	\$273.60	\$177.11	\$1,576.53
General Offices (200-300K sq. ft.)		\$873.21	\$129.55	\$247.83	\$160.43	\$1,411.02
General Offices (300K-500K sq. ft.)		\$782.66	\$114.37	\$218.78	\$141.62	\$1,257.43
General Offices (>500K sq. ft.)		\$743.61	\$105.35	\$201.53	\$130.46	\$1,180.95
Office Park		\$929.10	\$137.84	\$263.69	\$170.69	\$1,501.32
Research and Development Center		\$659.81	\$92.94	\$177.80	\$115.09	\$1,045.64
Building Materials and Lumber Store		\$2,388.30	\$106.12	\$203.01	\$131.41	\$2,828.84
Garden Center		\$2,169.98	\$125.29	\$239.67	\$155.15	\$2,690.09
Shopping Center (< 50K sq. ft.)		\$3,179.21	\$318.26	\$608.83	\$394.11	\$4,500.41
Shopping Center (50K to 100K sq. ft.)		\$2,725.94	\$245.41	\$469.47	\$303.90	\$3,744.72
Shopping Center (100K to 300K sq. ft.)		\$2,386.08	\$162.54	\$310.94	\$201.28	\$3,060.84
Shopping Center (300K to 500K sq. ft.)		\$2,181.44	\$134.21	\$256.74	\$166.19	\$2,738.58
Shopping Center (>500K sq. ft.)		\$1,996.76	\$111.43	\$213.16	\$137.98	\$2,459.33
Restaurant		\$1,496.56	\$57.94	\$272.83	\$71.84	\$1,899.17
Fast Food Restaurant (w./drive-thru)		\$3,255.10	\$175.60	\$335.93	\$217.45	\$3,984.08
Car Dealerships		\$2,255.38	\$166.37	\$318.26	\$206.01	\$2,946.02
Service Station (per pump)		\$1,105.94	\$92.37	\$176.70	\$114.38	\$1,489.39
Supermarket		\$3,658.14	\$304.95	\$583.37	\$377.63	\$4,924.09
Convenience Market		\$4,842.03	\$205.01	\$392.19	\$253.87	\$5,693.10
Convenience Market w/Gas Pumps		\$5,548.07	\$278.73	\$533.21	\$345.15	\$6,705.16
Furniture Store		\$304.33	\$15.09	\$28.86	\$18.68	\$366.96
Bank (w/ no drive thru)		\$5,133.41	\$97.65	\$186.81	\$120.93	\$5,538.80
Drive-In bank		\$5,800.24	\$184.19	\$352.35	\$228.08	\$6,564.86
Golf Course (per hole)		\$2,441.66	\$52.21	\$99.88	\$64.66	\$2,658.41
Elementary School		\$723.53	\$129.39	\$247.53	\$160.23	\$1,260.68
High School		\$798.10	\$131.57	\$251.69	\$162.92	\$1,344.28
Hospital		\$1,009.21	\$202.54	\$387.46	\$250.81	\$1,850.02
Nursing Home		\$321.77	\$122.61	\$234.56	\$151.83	\$830.77
Recreational Community Center		\$825.65	\$16.04	\$30.69	\$19.87	\$892.25
Marina (per berth)		\$483.58	\$4.59	\$8.77	\$5.68	\$502.62
Movie Theater (per screen)		\$9,121.20	\$166.68	\$318.86	\$206.40	\$9,813.14
Racquet Club (per court)		\$259.59	\$26.81	\$51.28	\$33.20	\$370.88
Bowling Alley		\$285.68	\$24.58	\$47.03	\$30.44	\$387.73

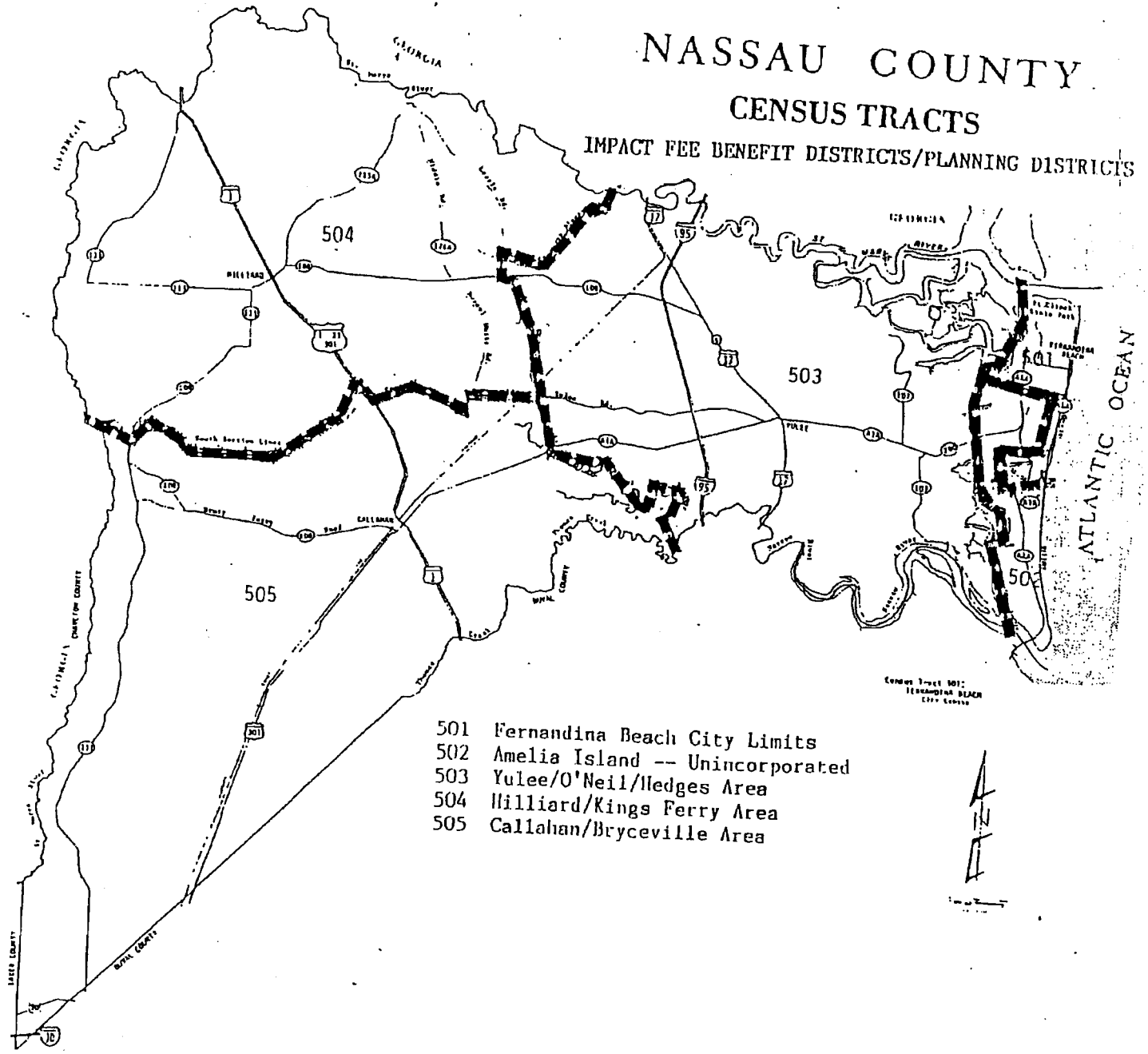
	District	Community	Regional	TOTAL
Recreational Impact Fee				
Single Family	502/503	\$222.00	\$330.50	\$552.50
Multi-family		\$206	\$224.50	\$430.50
Single Family	504	\$163.00	\$330.50	\$493.50
Multi-family		\$148.00	\$224.50	\$372.50
Single Family	505	\$184.00	\$330.50	\$514.50
Multi-family		\$167.00	\$224.50	\$391.50
Education Impact Fee				
Single Family		\$3,726		
Multi-family		\$3,726		
Mobile Home		\$3,726		

02/12/04mdm

NASSAU COUNTY

CENSUS TRACTS

IMPACT FEE BENEFIT DISTRICTS/PLANNING DISTRICTS



- 501 Fernandina Beach City Limits
- 502 Amelia Island -- Unincorporated
- 503 Yulee/O'Neil/Hedges Area
- 504 Hilliard/Kings Ferry Area
- 505 Callahan/Bryceville Area

Census Tract 501:
FERNANDINA BEACH
City Limits

EXHIBIT "B"