

SECTION 37.0 IMPACT FEES

Section 37.01 Introduction

An impact fee is a one-time charge applied to new construction. The purpose of the fee is to fund capital projects such as roads, parks, schools, jails, fire stations, and other infrastructure that are needed because of the new development. The funds collected cannot be used for operation, maintenance, or repair of capital facilities.

The following procedures are intended to provide guidance in the administration of the Impact Fees Ordinance.

Section 37.02 Imposition of Impact Fees

Impact fees are based on seven Land-Use Types Residential, Industrial, Office, Commercial, Recreational, Institutional and Medical. These are then broken into sub-categories as shown on the current Impact Fee Schedule. A list of the Land-Use Types, sub-categories and examples can be found in Sub-Section 37.09.

A. The County Administrator's designee shall fill out the total calculated impact fees on the Clearance Sheet. The fee shall be based upon one of the three following criteria:

1. The current Impact Fee Schedule; or
 - a. Clearance Sheets in non-residential plans (limited to Commercial, Minor Commercial, and Non-DRC plans) that receive approval or are determined to have received Determination of Substantial Approval prior to July 2, 2018 shall be assessed in accordance with the Impact Fee Schedule, Resolution 2017-361, or the Impact Fee Schedule in Exhibit "A-1" to Impact Fee Ordinance 2018-16, whichever is more beneficial to the applicant; or
 - b. Clearance Sheets in non-residential plans that receive approval or Determination of Substantial Approval beginning July 2, 2018 shall be assessed in accordance with the current Impact Fee; or

2. Administrative Determination of Fees

Whenever possible, impact fees shall be assessed in accordance with the land use types in the fee schedules adopted in the Impact Fee Ordinances. If it is determined there is no comparable type of land use in the fee schedule, then the County Administrator or his designee shall administratively determine the fee as described in each of the Ordinances. If the fee payer disagrees with the impact fee determined administratively (or based on the fee schedules in the ordinances), the fee payer may prepare an independent fee calculation study in accordance with each of the Ordinances.

3. Independent Fee Calculation

If the feepayer disagrees with the impact fee determined administratively (or based on the fee schedules in the ordinances), the feepayer may prepare an independent fee calculation study prior to the issuance of a building permit or manufactured home permit for review and consideration by the County Administrator or his designee.

B. Payment Due

1. New Construction

Payment less any applicable credits, deferrals, or exemptions is required prior to electrical energizing.

2. Additions and Remodeling

When an addition to or remodeling of an existing structure requires assessment of additional impact fees payment less any applicable credits or exemptions payment is required prior to the issuance of a building permit.

C. Fee Verification

The Building Division verifies that the total impact fees that have been calculated on the clearance sheet are consistent with the permit application before a building permit or manufactured home permit is issued.

Section 37.03 Determination of Fee

Residential impact fees are based on heated and air-conditioned square footage.

Non-residential development is based on gross floor area, not leasable floor area. Gross floor area refers to the total area of all floors of a building as measured to the outside surfaces of exterior walls and includes halls, stairways, elevator shafts, attached garages, porches and balconies.

A. Mixed Use Development

If a development includes residential and non-residential land uses or a combination of non-residential land uses, the impact fees are assessed for each use based on the fee schedules. However, the feepayer has the option of completing an Independent Fee Calculation Study in accordance with the Impact Fee Ordinances and as allowed in the "Impact Fee Methodology" and in this Manual.

B. Mixed Use Structures

In many instances, a particular structure may include auxiliary uses associated with the primary land use. For example, in addition to the actual production of goods, manufacturing facilities usually also have office, warehouse, research and other associated functions. The impact fee generally should be assessed based on the primary land use. If the feepayer can document that a secondary land use accounts for over 2 percent of the gross floor area of the structure, then the impact fee may be assessed

based on the square footage of each use in the structure. For example, the impact fee for a large furniture store may be assessed in the following manner:

1. Determine the impact fee for the retail activity based on the gross square footage of the showroom;
2. Determine the impact fee for the warehouse activity based on the gross square footage devoted to storage; and
3. The total impact fee would equal the sum of each of the fees.

This procedure should be followed only when the feepayer can clearly document, to the satisfaction of the County Administrator or his designee, the square footage accounted for by the primary and secondary land uses (see special instructions for shopping centers).

C. Shell Permit

Developers may apply for a building permit to construct the "shell" of a building. Interior completion permits would be necessary to finish construction of the interior of the structure. An impact fee shall be paid prior to the issuance of the Certificate of Occupancy or County approval for Electrical Energizing for construction of the shell and/or the individual occupancies whichever comes first. The amount of the fee should be based on the intended land use (as described by the developer). If the intended land use is not known, the impact fees shall be assessed based on that land use which generates the least impact and is allowed under the existing zoning for the lot or parcel. If it is found during review of the building permit application for renovation that the actual land use differs from the intended land use (as described by the developer), a determination shall be made as to whether or not an additional impact fee is due based on the procedures for Change of Use.

D. Change of Use

In the case of a change of use, redevelopment, or modification of an existing use which requires the issuance of a building permit or manufactured home permit, the impact fee shall be based upon the net increase in the impact fee for the new use as compared to the previous use. The amount of the impact fee that is due as a result of the change in land use shall be determined at the same time that the feepayer applies for the building permit or manufactured home permit. The impact fee shall be paid prior to the Electrical Energizing for construction or remodeling. If the change of land use does not require the issuance of a building permit or manufactured home permit, then there shall be no requirement to pay an impact fee. The County Administrator or his designee shall calculate the impact fee due as a result of a change in use. In the event the building was constructed prior to the effective date of this ordinance, the fee schedule used for calculation of the existing use may be the current impact fee schedule or the FY 2018 schedule whichever is more beneficial to the applicant. Under no circumstances will a refund of the impact fee be granted for change of use.

E. Auxiliary Uses

No fee shall be assessed for auxiliary land uses, such as a clubhouse or tennis court in an apartment complex, unless it is established by the County that the land use serves as an individual attraction. If the clubhouse or recreational facilities are open or available to the general public, then those facilities are not auxiliary and serve as an individual attraction. Structures that meet the definition of a "dwelling" are not eligible for exemption as auxiliary uses.

F. Shopping Centers

Shopping Centers shall be assessed in the same manner as shell permits.

G. Model Homes

Model homes on single family lots should be finished (completed). However, the final inspection will not be done until the impact fee for a detached residential dwelling is paid. Model homes on commercial lots shall pay at the same rate as the general commercial land use category on the fee schedule. Single-family model homes placed on multi-family lots shall pay the residential fee.

Model Homes with sales or a temporary sales unit will be assessed impact fees under the Residential Land Use Type.

H. Churches

Churches fit two distinct categories:

1. Churches with active weekday school or daycare programs; and
2. Churches without such programs.

Churches which submit a letter for the file documenting that their activities take place at limited times, during off-peak situations (i.e. Sundays) may be assessed an impact fee of zero (0) dollars. Churches with schools are treated as Mixed Use Development (See paragraph B).

I. Fraternal Organizations/Civic Clubs

Civic Clubs are requested to submit a letter documenting that their activities take place at limited times, during off-peak situations. The letter must be provided prior to the issuance of permits. They can obtain a conditional impact fee assessment, meaning that if the fraternal organization does not adhere to the off-peak scheduling, they may be subject to the payment of impact fees.

J. Replacement and Expansion of Pre-Existing Residential Unit

A replacement residential unit will be allowed without payment of an impact fee if an existing residential unit is considered to have been replaced by a new unit within the same square footage category or a smaller category. Any square footage beyond the documented pre-existing square footage of the replaced/remodeled/renovated/expanded

residential unit will be assessed the difference in impact fees due between the pre-existing square footage category and the new square footage category.

K. Airport Authority

Impact Fees collected from property owned and operated by the St. Augustine – St. Johns County Airport Authority within the Airport future land use district will be accounted for. Due to limitations on Federal Aviation Authority grants, expenditures of these impact fees will comply with the expenditure provisions of the Consolidated Impact Fee Ordinances and will also have a reasonable connection, or a rational nexus, between the expenditures of the funds and the benefits accruing to the Airport Authority property. As set forth in the Consolidated Impact Fee Ordinances, the allocation of Impact Fees does not result in a disproportionate cost to the Airport Authority compared to the Impact Fees charged to other persons or entities.

Section 37.04 Exemptions

A. Must be claimed by Feepayer

An exemption must be claimed by the feepayer at the time of the submitting of a clearance sheet for a building permit or manufactured home permit. Any exemption not so claimed shall be deemed waived by the feepayer.

Requests for Exemptions from a specific Impact Fee must supply appropriate documents confirming a sufficiently binding covenant, running with title to the land for at least thirty (30) years, such that the impacts are not charged or collected.

B. Total Exemptions

The following shall be exempted from payment of all Impact Fees:

1. Alteration or expansion of an existing residential building where the additional square footage will not place the building in a higher square footage category and where the use is not changed.
2. The replacement of a residential land use unit with a new unit of the same square footage or within the same square footage category.
3. The replacement of a non-residential building or structure with a new building or structure of the same size and use.
4. The construction of residential accessory buildings or structures. Auxiliary structures such as clubhouses or other recreational facilities available to a residential development shall only be exempt if they are only available for use by residents of the development. If Auxiliary structures serve as an individual attraction, such that they are open and available to the general public, then they are not exempt from the payment of Impact Fees.
5. Temporary installation of a residential manufactured home or the construction of a temporary residential unit under such circumstances that the County is assured that

the manufactured home or residential unit will be permanently removed within two years of the date of the issuance of the County permit. This exemption shall not apply to manufactured home parks or other sites or uses where it is contemplated or likely that a different manufactured home or residential unit will replace the temporary manufactured home or the temporary residential unit after it is removed.

C. Partial Exemptions

The following categories of development (land use types) are not charged the impact fees listed below according to the fee schedules in the ordinances:

LAND USE TYPE CATEGORY	SCHOOLS	PARKS
1. Hotel/Motel	X	NOT EXEMPT
2. Industrial	X	X
3. Office	X	X
4. Commercial	X	X
5. Recreational	X	X
6. Institutional	X	X
7. Medical	X	X

Section 37.05 Credits Against Impact Fees

Any claim for credit under an approved Impact Fee Agreement, Developer’s Agreement or pre-payment of impact fees must be made no later than the time of application for a building permit or permit for manufactured home installation. Any claim not so made shall be deemed waived.

Section 37.06 Refunds – Expiration of Building Permits

A. Refunds

If a building permit or manufactured home permit expires and no construction has commenced, then the feepayer shall be entitled to a refund.

1. A request for refund must be submitted to Growth Management within thirty (30) days of the expiration of the permit. The County shall retain six percent (6%) of the fee to offset a portion of the costs of collection and refund.
2. If such a refund has been received by the feepayer, the feepayer must pay the appropriate impact fee if he reapplies for the permit.

B. Building Permit Expiration

If a building permit or manufactured home permit expires and no refund has been issued, a feepayer is not required to pay the fee again if the feepayer reapplies for a permit for an equivalent use on the same lot, parcel or tract, and that there has not been any increase in Impact Fees.

1. If there has been an increase in Impact Fees the applicant is responsible for payment of the difference in increase.
 2. The credit must be requested by the feepayer at the time of issuance. Any credit not requested at the time of reapplication shall be deemed waived by the feepayer.
- C. A refund of the impact fee shall not be granted if the building permit or manufactured home permit expires, but construction has commenced, (i.e. the foundation for the structure has been poured). In this case, the feepayer would not have to pay an impact fee if the feepayer reapplies for a building permit for an equivalent use.

Section 37.07 Impact Fee Deferred Payment Plans

- A. Single family Workforce Housing (**Reserved**)
- B. Economic Development

Any Applicant who is required to pay Impact Fees in the amount of \$50,000 or greater may apply to pay in installments:

- May not to exceed a five (5) year period of time.
- The rate of interest shall be based upon the Annual Average Construction Cost Index.
- The Applicant agrees to provide a Letter of Credit in a form acceptable to the County Administrator.
- The Applicant acknowledges that the unpaid amount of the Impact Fees shall constitute a lien against the property and all improvements located thereon.

1. Procedures

- a. Applicant submits an executed "Agreement for Deferral of Impact Fees" to the Growth Management Department Attention:

Growth Management Department Director
4040 Lewis Speedway
St. Augustine, FL 32084

904-209-0660 phone
GMDevelopment@sjcfl.us

- b. Upon determination of completion (five (5) working days) the Agreement will be placed on the next available Board of County Commissioners' agenda for consideration.

2. Upon Approval by the Board of County Commissioners:

- a. The Applicant is required to provide a Letter of Credit in a form acceptable to the County Administrator or his designee for the amount of the Impact Fee deferred, such letter may be drawn down annually as the amount deferred is paid.

- b. The Applicant must submit first installment payment (no interest rate calculated).
- c. Upon execution of the Agreement by the County Administrator the applicant is required to record the Agreement in the public records of the County and provide a recorded copy to the Growth Management Department.

3. Exemptions

- a. The payment of School Impact Fees is not eligible for the impact fee deferred payment plan.
- b. Projects subject to an approved Impact Fee Agreement or Development Agreement are not eligible for the impact fee deferred payment plan.

C. Affordable Housing Deferral

Pursuant to the requirements established in this section, the County may defer the payment of impact fees for qualifying affordable housing developments.

1. Impact Fee Deferral Criteria

- a. The new development shall be multi-family dwellings, under central ownership and management, with 100% of units offered for rent to households earning 60% or less of the Area Median Income (AMI) as determined by the Secretary of the U.S. Department of Housing and Urban Development.
- b. The Property Owner shall provide deed restrictions, approved by the County Administrator or designee and recorded with the Clerk of Court, which will encumber the property with a restriction that limits the rental amount in accordance with subsection C.1.a. above, for a minimum of 30 years.
- c. The Property Owner or successor in interest shall be either a non-profit entity recognized by the federal Internal Revenue Service as tax exempt under section 501(C)(3) of the Internal Revenue Code or an Owner with a General Partner, Managing Member, or Non-investor Member that is non-profit entity as defined in Section 42(h)(5)(c) subsection 501(c)(3) of the Internal Revenue.

2. Ceiling of Deferrals

- a. The total annual amount of impact fee deferrals granted pursuant to this subsection shall be limited to three percent (3%) of the previous year's residential impact fee collection (excluding school impact fees).
- b. Impact fee deferrals granted shall be limited, in total, to one hundred (100) units per fiscal year with no rollover.
- c. The Growth Management Department shall maintain a tracking system to ensure that the aggregate amount of impact fee deferrals do not exceed the deferral ceilings established.

- d. Deferrals shall be available on a first-come, first-served basis. If the requests for deferrals exceed the amount or unit number of deferrals available as described, the request may be heard by the Board of County Commissioners for additional allocation.

3. Deferral Agreements

- a. The deferred impact fees shall be due and payable no later than sixteen (16) years after the execution of the Deferral Agreement with the County, unless otherwise extended by the Board of County Commissioners.
- b. An interest rate will be applied to the total amount of the deferred impact fees based on the Annual Average Construction Cost Index published by the Engineering News-Record, at the time of the payment, capped at four percent (4%) of the deferral amount.
- c. School Impact Fees are not eligible for impact fee deferral, unless specifically authorized by the St. Johns County School Board, and payment is required prior to electrical energizing pursuant to Section 37.02.B.
- d. The impact fees deferred amount shall be secured with a mortgage lien on the property until all requirements in the agreement have been satisfied.
- e. The impact fees shall automatically be due and payable prior to that time period if there is any breach of the Deferral Agreement.
- f. Neither the deferred impact fees nor the agreement providing for the deferral shall be transferred, assigned, credited or otherwise conveyed from the dwelling units and shall run with the land.
- g. Upon satisfactory completion of the agreement's requirements, the County shall record any necessary documentation evidencing same, including but not limited to a release of the mortgage lien.

4. Procedure

- a. The applicant may submit a deferral request to the Growth Management Department documenting compliance with the criteria for review and reservation of deferred impact fees.
- b. The applicant shall be required to submit an executed Impact Fee Deferral Agreement, in the format provided by the County, to the Growth Management Department prior to approval of construction plans.
- c. The County Administrator is authorized to execute Deferral Agreements in accordance with this subsection. Upon execution, the applicant is required to record the Agreement in the public records of the County and provide a recorded copy to the Growth Management Department.

Section 37.08 Appeals

Any decision made by the County Administrator in the course of administering the provisions of the consolidated impact fee ordinance may be appealed to the Board of County Commissioners.

- A. A petition of appeal must be filed with the County Administrator within thirty (30) calendar days of the date of the rendition of the decision.
- B. The Board of County Commissioners shall review the petition at a public meeting within thirty (30) calendar days from the date of appeal of said decision.
- C. The petitioner shall be provided reasonable notice of the time, date, and place of the public meeting by certified mail, return receipt requested, and invited to attend. Testimony at the public meeting shall be limited to ten (10) minutes per side, unless an extension of time is granted by the Board. The Board's decision shall be final for the purpose of administrative appeals.
- D. The Board of County Commissioners shall revoke the decision of the County Administrator only if there is competent, substantial evidence in the record that the decision fails to comply with the consolidated impact fee ordinance.

Section 37.09 Land Use Categories

- A. Residential
 - 1. Single Family, Detached
 - a. Single Family Detached
 - b. Manufactured Homes
 - c. Patio Homes
 - 2. Single Family, Attached
 - a. Townhouse
 - b. Villas
- B. Multi-Family
 - 1. Duplexes
 - 2. Apartments
 - 3. Condominiums
 - 4. Triplexes
 - 5. Fourplexes
 - 6. Retirement Communities (congregate living quarters, dormitories, rooming house)
 - 7. Labor camps
 - 8. Jails
- C. Manufactured Home in manufactured home parks, subdivisions, etc.

- D. Hotel/Motel
 - 1. Hotel
 - 2. Resort hotel
 - 3. Motel

- E. Industrial
 - 1. Industrial
 - a. Light Industrial
 - b. Manufacturing
 - c. Mining
 - d. Assembly Plants
 - e. Industrial Park
 - f. Heavy Industrial

 - 2. Warehouse
 - a. Warehouse
 - b. Wholesale
 - c. Distribution Centers
 - d. Wholesale Plant Nursery
 - e. Aircraft Hangars

 - 3. Storage
 - a. Mini-warehouses
 - b. Storage yards

- F. Office
 - 1. General Office buildings
 - 2. Attorneys
 - 3. Accountants
 - 4. Real Estate
 - 5. Insurance
 - 6. Engineering
 - 7. Government Offices
 - 8. Corporate Offices
 - 9. Office Park
 - 10. Research Center
 - 11. Radio/TV Broadcasting Offices
 - 12. Day Care Center, Private School, Child Care Nursery (exempt from Public Buildings)
 - 13. Psychics, etc.
 - 14. Library

- G. Commercial

1. Retail
 - a. Convenience food stores
 - b. Gas Station/Service Station
 - c. Neighborhood Shopping Centers (25,000 – 100,000 SF)
 - d. Specialty retail centers
 - e. Freestanding retail
 - f. Supermarkets
 - g. Drug stores
 - h. Department stores
 - i. Discount stores
 - j. Hardware/Paint stores
 - k. Furniture store
 - l. Clothing/Apparel/Fabric stores
 - m. Jewelry/Watch stores
 - n. Barber shops
 - o. Beauty salons
 - p. Shoe repair shops
 - q. Dry Cleaners
 - r. New/Used Car sales
 - s. Community Shopping Centers (100,000 – 300,000 SF)
 - t. Shopping Center
 - u. Funeral homes
 - v. Laundry-dry cleaning
 - w. Theater/Museum/etc.
 - x. Retail Plant Nursery
 - y. Fish Camp, Marina
 - z. Auto/truck repair
 - aa. Dog/horse/auto/etc. racetracks
 - bb. Service establishments

2. Financial

- a. Financial institutions
- b. Bank Walk-in
- c. Bank Drive-in
- d. Savings and loan Walk-in
- e. Savings and loan Drive-in

3. Restaurant

- a. Fast food restaurants (with drive-through windows)
- b. High-turnover sit down restaurants
- c. Quality restaurants
- d. Bars/Night clubs

- H. Recreational

1. General Recreation (per acre)

2. Campground (per acre)
 3. RV/Boat Storage (per acre)
 4. Marina (per Berth)
 5. Health/Fitness Club
 6. Commercial Boarding Stables
 7. Outdoor Recreation (outdoor tracks, go-carts, dirt tracks, paintball, and similar activities)
 8. Tennis Clubhouse
 9. Racquetball Facilities and similar activities
 10. Animal Boarding
- I. Institutional
1. Elementary School
 2. Middle School
 3. High School
 4. College
- J. Medical
1. Hospital
 2. Nursing Home
 3. Medical Offices
 4. Dental Offices
 5. Ophthalmologists
 6. Optometrists
 7. Opticians
 8. Chiropractors
 9. Veterinarian offices (except large animal, agricultural services)
 10. Clinics