



**RETURN TO:
CITY OF ST. CLOUD
DEPT OF PLANNING AND ZONING
1300 9th STREET
ST. CLOUD, FL 34769**

ORDINANCE NO. 2017-43

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ST. CLOUD, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE OF THE CITY OF ST. CLOUD, FLORIDA TO INCLUDE ARTICLE XVIII, PUBLIC SAFETY IMPACT FEES SECTION 18.4 "DEFINITIONS;" AND SECTION 18.6 "COMPUTATION OF THE AMOUNT OF PUBLIC SAFETY SERVICES IMPACT FEE;" PROVIDING FOR SEVERABILITY; CONFLICTS; CODIFICATION; AND AN EFFECTIVE DATE.

WHEREAS, the City of St. Cloud shall expand its police and fire services and related facilities in order to maintain current level of service standards if new development is to be accommodated without decreasing current levels of service and standards of municipal police and fire services; and

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

WHEREAS, the City previously established impact fees based on a 2007 study by Burton & Associates; and

WHEREAS, as a best practice, the impact fee cost basis should be updated once every five years; and

WHEREAS, the report entitled FY 2016 Impact Fee Study, dated July 20, 2017, prepared by Burton & Associates, a copy is attached hereto and incorporated herein by reference, sets forth a reasonable methodology and analysis for the determination of the impact of new development on the need for and costs for additional police and fire services and related facilities which serve the residents of the City of St. Cloud.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF ST. CLOUD, FLORIDA, as follows:

SECTION 1

Article XVIII Section 18.4 Definitions of the City of St. Cloud Land Development Code is hereby amended as follows (note strikethrough indicates removed words and underlined indicates added):

18.4. - Definitions.

Supplemental to "Definitions" specified in article II of the Land Development Code of the city, and for the purposes of this article, the following terms and words shall have the meaning prescribed unless the content of the text clearly requires otherwise:

- A. *Fee payer.* Any person, organization or entity who, after the effective date of the ordinance from which this article is derived, seeks to develop land by applying for a building permit to make an improvement to land which shall generate additional impacts or who seeks to place a mobile home on an approved mobile home lot, shall be required to pay impact fees in the manner and amount set forth in the ordinances. Provided, however, that the City of St. Cloud shall not be considered a "Fee Payer" and shall be specifically exempt for the payment of impact fees hereunder related to the development or improvements of any land owned by the City and/or developed for a public use.
- B. *Applicant.* The person or qualified entity who applies for a certificate of capacity or building permit.
- C. *Building permit.* An official document or certificate issued by the city authorizing the commencement of construction of any structure.
- D. *Capital cost/improvement.* Includes the costs of construction of facilities, equipment, uniforms, weaponry, rescue equipment, emergency medical equipment, vehicles, trucks and other personal related equipment and machinery for police and fire services and facilities.
- E. *City manager.* Shall mean the city manager or the professionally qualified city officials he may designate to carry out the administration of this article.
- F. *Certificate of capacity.* A legal document, which records the reservation of capacity of public facilities for a development. The certificate shall contain a legal description of the property on which development will occur, the name of the applicant and property owner, the type of development, the assumptions used in assessing capacity needs, the amounts of capacity reserved for public facilities, and the length of time and conditions for which such capacity is reserved.
- G. *Comprehensive plan.* Shall mean the comprehensive plan of the city adopted and amended pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act.
- H. *Encumbered.* Committed in capital improvements for a specified improvement on a specified time schedule not in excess of five years, or committed by contract or interlocal governmental agreement for improvement construction or acquisition such that the city is obligated to expend the committed or encumbered funds.
- I. *Impact fee component (public safety).* That portion of the impact fee attributable to police and fire services and facilities imposed by the city pursuant to section 18.5.
- J. *Impact fee program report.* That certain report prepared by Burton & Associates, dated July 20, 2017, and as may from time to time be amended and adopted by resolution of the city council.

- K. *Impact generating land development activity (public safety).* Land development either residential or nonresidential that attributes to the growth of the city's population or to the level of business or other activity beyond the then-existing use of the land in a manner that requires new police and fire services and related facilities.
- L. *Level of service.* An indicator of the extent or degree of service provided by, or proposed to be, provided by a facility based on and related to the operational characteristics of the facility. Level of service shall indicate the capacity per unit of demand for each public facility.
- M. *Public safety services.* Those services provided by the city fire and police department as authorized to be provided by the city's Charter and in accordance with applicable law.

SECTION 2

Article XVIII Section 18.6. Computation of the amount of public safety services impact fee of the City of St. Cloud Land Development Code is hereby amended as follows (note strikethrough indicates removed words and underlined indicates added):

- A. The applicable amount of the public safety services impact fee for the structure, land development or otherwise shall be taken from the impact fee schedule as calculated by the city manager and confirmed by resolution of the city council.
- B. From time to time, the city manager shall calculate the amount of public safety services impact base fees for each of the various categories established below:

BASE FEE CATEGORIES	
Land Use Type	Unit Used in Calculation
Residential	
Single Family	Dwelling Unit
Multifamily	Dwelling Unit
Nonresidential	1,000 Square Feet

- C. The variables (i.e., public safety services impact fee parameters) as set forth in the impact fee program report are determinative in the calculation of the public safety services impact fees.
- D. In his calculations of the public safety impact fee amounts, the city manager, or his designee, shall use the calculation formula and the impact fee schedule contained in the impact fee program report, incorporated herein. The calculation formula and the impact fee schedule may be changed by resolution from time to time adopted, with the values of the public safety impact fee parameters established therein.
- E. To the extent applicable, the impact fee calculation formula shall include a credit for local option sales tax and other tax payments, which may be used in funding public safety capital costs and facilities. The public safety gross impact fee may be discounted by a percentage,

which shall be confirmed by resolution of the city council from time to time. The public safety impact fee schedule and the schedule as may be discounted shall be maintained in the office of the city manager. The purpose of these credits and discounts are to encourage the use of such schedule in order to avoid administrative costs required to process independent fee calculations and studies.

- (1) If a building permit is requested for mixed uses, then the fee shall be determined by using the applicable schedule and apportioning the space committed to uses specified on the applicable schedule.
 - (2) For applications for an extension of a building permit or an extension of a permit for mobile home installation, the amount of the fee is the difference between that fee then applicable and any amount already paid or incurred pursuant to this article.
 - (3) If the type of development activity that a building permit is applied for is not specified on the applicable fee schedule, the city manager shall use the fee applicable to the most nearly comparable type of land use on the fee schedule. The city manager shall be guided in the selection of a comparable type by the city comprehensive plan, support documentation of the city comprehensive plan, and the city Land Development Code. If the city manager determines that there is no comparable type of land use on the applicable fee schedule, then the city manager shall determine the appropriate fee by considering demographic or other documentation which is available from federal, state, local and regional authorities by applying the impact fee formulae presented in the impact fee program report.
 - (4) In the case of change of use, redevelopment or expansion or modification of an existing use which requires the issuance of a building permit or permit for mobile home installation, the impact fee shall be based upon the net positive increase, if any, in the impact fee for the new use as compared to the previous use. The city manager shall be guided in this determination by the sources and agencies referred to in the impact fee report.
- F. If a fee payer opts not to have the impact fee determined according to paragraph (A) of this section, then the fee payer shall prepare and submit to the city manager 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 in a manner and type as found in the report entitled FY 2016 Impact Fee Study dated July 20, 2017, or in the most recent municipal/public safety impact fee methodology as such methodology may be amended from time to time, and such independent fee shall be calculated by applying the impact fee formula presented in the impact fee study report of July 20, 2017. The documentation submitted shall show the basis upon which the independent fee calculation was made, including but not limited to the following:
- (1) Public safety facilities, engineering, and/or cost studies.
 - (a) Documentation of cost of land and/or facilities.

- (b) Documentation of direct costs to equip a fulltime police officer and/or firefighter, including but not limited to, the costs of vehicles, and service facilities necessary to maintain the established level of service and responses times.
- (2) Economic documentation studies.
 - (a) Documentation of the specific demographics applicable to and appropriate for the proposed land development activity.
 - (b) Documentation of credits attributable to the proposed land development activity which can be expected to be available to replace the portion of the service volume generated by the proposed land development activity.

Independent fee calculation studies shall be prepared and presented by professionals qualified in their respective fields. The city manager shall consider the documentation submitted by the fee payer but is not required to accept such documentation as he shall reasonably deem to be inaccurate or not reliable and may, in the alternative, require the fee payer to submit additional or different documentation for consideration. If an acceptable independent fee calculation study is not presented, the fee payer shall pay public safety impact fees based upon the schedules referenced in paragraph (A) of this section. If an acceptable independent fee calculation is presented, the city manager may adjust the fee to that appropriate to the particular development. The adjustment may include a credit against the fee otherwise payable up to ten percent, for public safety facilities constructed or otherwise set aside for public safety purposes by the fee payer which serve the same purposes and functions as set forth for public safety facilities in the city comprehensive plan, provided that adequate documentation is presented which ensures that any internal capture of public safety demand is greater than off-site public safety demand. Determinations made by the city manager pursuant to this paragraph may be appealed to the city council by filing a written request with the city manager within ten days of the city manager's determination.

SECTION 3

All Development that has paid the applicable Impact Fee for a particular use, at the time of the effective date of this Ordinance, shall be vested at the Impact Fee rate in effect prior to the date of this Ordinance. The vesting rights contemplated herein shall not apply to any such Development that requires extensions, revisions, or amendment of the approved development order or permit after the date of this Ordinance.

Nonresidential development projects with Building Permits issued prior to the effective date of this ordinance and a Certificate of Occupancy issued after the effective date will pay the new Impact Fee rate.

SECTION 4

The City Clerk, after consultation with the City Attorney, is authorized to correct scrivener's errors found by filing a corrected copy of this ordinance in the official records of the City.

SECTION 5 · SEVERABILITY. It is declared to be the intent of the City Council that, if any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held

invalid or unconstitutional by a 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 6. CONFLICT. This action supersedes all codes and ordinances of the City or parts of, in conflict with this ordinance, to the extent of the conflict.

SECTION 7. CODIFICATION. Section 1 – 2 of this Ordinance shall be codified in the Land Development Code for the City of St. Cloud, Florida, separate and apart from the Code of St. Cloud. The codifier is authorized to make editorial changes not affecting the substance of this ordinance in the substitution of "article" for "ordinance", "section" for "paragraph", or otherwise take such editorial license.


SECTION 8. EFFECTIVE DATE. This ordinance shall be published as provided by law and take effect January 1, 2018.

First Reading on the 10th day of August 2017

Second Reading on the 28th day of September 2017


Nathan Blackwell, Mayor

ATTEST:


Linda P. Jaworski, City Clerk

LEGAL IN FORM AND VALID IF ADOPTED:
DEBEAUBIEN, SIMMONS, KNIGHT, MANTZARIS & NEAL

By: 
Daniel F. Mantzaris, City Attorney

Pursuant to Section 695.26 (3) (f), this instrument exempt from Chapter 695, F.S.