

STATE OF FLORIDA
COUNTY OF VOLUSIA

I, KARISSA GREEN, Deputy Clerk to the County Council of Volusia County, Florida, do hereby certify that the attached and foregoing Ordinance 2022-35 is a true and correct copy of that certain ordinance as adopted by the County Council of Volusia County, Florida, at its meeting held on December 6, 2022.

WITNESS my hand and official seal at DeLand, Volusia County, Florida, this
12th day of December A.D. 2022.

BY: Karissa Green
KARISSA GREEN
DEPUTY CLERK TO THE COUNTY COUNCIL
OF VOLUSIA COUNTY, FLORIDA



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

ORDINANCE 2022-35

AN ORDINANCE OF THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE COUNTY OF VOLUSIA RELATED TO AN UPDATE OF THE THOROUGHFARE ROAD IMPACT FEE; AMENDING ARTICLE III OF CHAPTER 70; ADOPTING BY REFERENCE AN IMPACT FEE STUDY BASED ON THE MOST RECENT AND LOCALIZED DATA; ADOPTING LEGISLATIVE FINDINGS OF FACT AND INTENT; AMENDING SECTION 70-71, BY AMENDING THE DEFINITION OF THOROUGHFARE SYSTEM; REPEALING AND REPLACING SECTION 70-75, IMPOSITION, BY ADOPTING A REVISED REGULATIONS ON THE IMPOSITION OF THOROUGHFARE ROAD IMPACT FEES AND ADOPTING AN UPDATED THOROUGHFARE ROAD IMPACT FEE SCHEDULE; AMENDING SECTION 70-76, PAYMENT; AMENDING SECTION 70-77, TRUST FUNDS; USE OF FUNDS; AMENDING SECTION 70-78, REFUNDS; AMENDING SECTION 70-79 EXEMPTIONS AND CREDITS; UPDATING REFERENCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING ORDINANCES; AUTHORIZING INCLUSION IN CODE; AND PROVIDING AN EFFECTIVE DATE.

28 WHEREAS, the imposition of impact fees is one of the preferred and recommended forms of
29 ensuring that new development bears a proportionate share of the cost of thoroughfare road
30 capital facilities necessitated by new development; and

31
32 WHEREAS, impact fees have become a widespread and acceptable form of funding
33 infrastructure needed for new growth in Florida; and

34
35 WHEREAS, Section 163.31801, Florida Statutes, "The Florida Impact Fee Act" (the "Act")
36 recognizes that impact fees are an important source of revenue for local governments to use in
37 funding the infrastructure necessitated by new growth; and

38
39 WHEREAS, the Act provides the minimum requirements for the adoption, collection, and
40 administration of impact fees; and

41
42 WHEREAS, The Report titled "Volusia County Impact Fee Study" dated September 30, 2022
43 and prepared by Benesch, as discussed, amended, and supplemented at public workshops
44 and meetings of the County Council of Volusia County, is accepted as the most recent and
45 localized data that sets forth a reasonable methodology and analysis for the determination of

the impact of new development on the need for, and costs of, additional fire rescue, parks, EMS, and thoroughfare road capital facilities in Volusia County; and

WHEREAS, the Report titled "Volusia County Impact Fee Study Supplement" dated September 30, 2022 and prepared by Benesch, as discussed, amended, and supplemented at public workshops and meetings of the County Council of Volusia County, is accepted as the demonstrated-need study pursuant to Section 163.31801(6)(g), Florida Statutes.

WHEREAS, on July 27, 2022 and August 17, 2022, Volusia County held publicly noticed workshops dedicated to the extraordinary circumstances necessitating the need to exceed the phase-in limitations set forth in Section 163.31801(6)(b), (c), (d), and (e), Florida Statutes.

WHEREAS, the ordinance is enacted under the general home rule power of local governments imposed under the sovereign power to provide certain services within its jurisdiction, regulate land use, and engage in comprehensive land use and capital improvement planning; the home rule power of a charter county under Article VII, Section 1(g), of the Florida Constitution; and under the authority in sections 125.01 and 163.31801, Florida Statutes.

BE IT ORDAINED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, AS FOLLOWS:

(Words in ~~strike-through~~ type are deletions; words in underscore type are additions.)

SECTION I: Incorporation of Recitals and Study. The above recitals are hereby adopted as legislative findings of fact and intent. The Volusia County Impact Fee Study prepared by Benesch dated September 30, 2022 is hereby incorporated by reference to this ordinance.

SECTION II: Chapter 70, Article III, Section 70-71, Code of Ordinances, County of Volusia, is amended to read as follows:

Sec. 70-71. Definitions and rules of construction.

- (a) For the purposes of administration and enforcement of this article, unless otherwise stated in this article, the following rules of construction shall apply to the text of this article:
- (1) In case of any difference of meaning or implication between the text of this article and any caption, illustration, summary table or illustrative table, the text shall control.
 - (2) The word "shall" is always mandatory and not discretionary; the word "may" is permissive.

- (3) Words used in the present tense shall include the future; and words in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- (4) The phrase "used for" includes "arranged for," "designed for," "maintained for" or "occupied for."
- (5) The word "person" includes an individual, a corporation, a partnership, a governmental entity or agency, an incorporated association or any other similar entity.
- (6) The word "includes" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of a like kind or character.
- (7) Any road right-of-way used to define thoroughfare road impact fee zone boundaries may be considered to be within any zone it bounds for purposes of using these funds.
- (8) The land use types listed in subsection 70-75(c)(3) shall have the same meaning as under the zoning ordinance of the county.
- (b) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Webster's New Collegiate Dictionary (G & C Merriam Co., 11th ed. 1992/2003, or any subsequent edition) shall be used for the definition of any words not defined in this section.

Accessory use means any use or attached or detached structure clearly incidental, subordinate and related to the principal use or structure and located on the same lot with such principal use or structure.

Apartment means a rental dwelling unit that is located within the same building with at least two other dwelling units. Sites included in this land use are triplexes and all types of apartment buildings. The apartments in this land use include both low-rise or "walk-up" dwellings and high-rise.

Applicant means any person applying for or who has been granted a permit to proceed with a project.

Average trip length means the average length in miles of external trips.

Building means any structure built for support, shelter, or enclosure for any occupancy or storage. The term "building" shall be construed as if followed by the words "or part thereof."

Building area means the area included within surrounding exterior walls, or exterior walls and fire walls.

Building permit means the permit required by section 105 of the Florida Building Code, as adopted by the county.

Capacity means the maximum number of vehicles for a given time period which a road can safely and efficiently carry; usually expressed in terms of vehicles per day.

Capital improvement includes transportation planning, preliminary engineering, engineering design studies, land surveys, right-of-way acquisition, engineering, permitting and construction of all the necessary features for any road construction project including, but not limited to:

- (1) Construction of new through lanes.
- (2) Construction of new turn lanes.
- (3) Construction of new bridges.
- (4) Construction of new drainage facilities in conjunction with new roadway construction.
- (5) Purchase and installation of traffic signalization (including new signalization and upgrading signalization).
- (6) Construction of curbs, medians, shoulders, sidewalks and bikepaths.
- (7) Relocating utilities to accommodate new roadway construction.

Certificate of occupancy means the official document or permit issued by a municipality or the county evidencing the completion of construction of a building in accordance with all applicable codes and its legal entitlement to permanent occupancy and use.

Collecting agency means the local governmental authority having jurisdiction to authorize the making of any material change of any structure, including the construction, enlargement, alteration or repair of buildings, or the local governmental authority having jurisdiction to authorize rezoning or special exceptions that make material changes in the use or appearance of land without making material changes of any structures on the land.

County manager means the county manager and/or his/her designee.

Dwelling means one or more rooms in a building forming a separate and independent housekeeping establishment, arranged, designed or intended to be used or occupied by one family, and having no enclosed space or cooking or sanitary facilities in common with any other dwelling unit with no ingress or egress through any other dwelling unit, and containing permanent provisions for sleeping facilities, sanitary facilities and not more than one kitchen facility.

Dwelling, manufactured: A dwelling fabricated in a manufacturing facility and bearing a seal certifying it is constructed to standards as adopted under the authority of F.S. § 553.35 et seq. and rules adopted by the Florida Department of Community Affairs under chapter 9B-1 et seq., Florida Administrative Code.

Dwelling, mobile home: A single-family dwelling fabricated in a manufacturing facility, having a width of more than 8½ feet and a length of more than 40 feet, and bearing a seal certifying it is constructed either to the Federal Manufactured Housing Construction and Safety Standards Code or to obsolete ANSI 119.1 Mobile Home Design and Construction Standards.

Dwelling, single-family: A building containing only one dwelling. This term includes a manufactured or mobile home dwelling.

Expansion. Expansion of the capacity of a road applies to all road and intersection capacity enhancements and includes extensions, widening, intersection improvements, upgrading signalization and improving pavement conditions.

Feepayer means that person or entity who pays a thoroughfare road impact fee or his/her successor in interest with the right or entitlement to any refund of previously paid development impact fees which is required by this ordinance and which has been expressly transferred or assigned to the successor in interest. In the absence of an express transfer or assignment or

entitlement to any refund or previously paid development impact fees, the right or entitlement shall be deemed "not to run with the land."

Flex office/warehouse means flex-type or incubator tenant space that lends itself to a variety of uses. The single story building is designed for multiple tenants, divided in spaces running front to rear. Office space is located only at the front of the building with warehouse space accessed by roll-up delivery doors. The proportion of office vs. warehouse space in each tenant space is not determined until the user occupies the space. The space may subsequently be reportioned to accommodate the current occupant or a new occupant's changing needs. The space may include such uses as offices; retail and wholesale stores; warehousing, manufacturing, light industrial, or scientific research functions. The maximum nonwarehouse use is limited to 35 percent of the total building space.

Frontage road and *marginal-access road* mean a minor street which parallels and is adjacent to an arterial, thoroughfare or state road, and which provides access to abutting properties and protection from through traffic.

Hotel means a place of lodging that provides sleeping accommodations, restaurants, cocktail lounges, meeting and banquet rooms or convention facilities, and other retail and service shops. Some of the sites included in this land use category are actually large motels providing the facilities of a hotel.

Land development activity generating traffic means the carrying out of any building activity or the making of any material change in the use or appearance of any structure or land that attracts or produces vehicular trips over and above that produced by the existing use of the land.

Lot means an area of land which abuts a street and which either complies with or is exempt from the Volusia County Subdivision Regulations and is sufficient in size to meet the minimum area and width requirements for its classification.

Major sports facility means a stadium or racetrack for major sports events with a permanent seating capacity of at least 5,000 spectators. Further, a major sports facility is characterized by infrequent use such that there are no more than 30 days of use per year where the facility is at, or above, ten percent occupancy. Actual fee for this land use category, provided it meets the definition, is based on the rate \times frequency of use (greater than 10 percent occupancy) on an annual basis.

Mixed use building means a single- or multiple-user building that cannot be classified as a shopping center and does not meet the definition of flex-office/warehouse building, but contains two or more uses listed on the road impact fee schedule as set forth in subsection 70-75(c)(3)a. The fee will be determined according to the fee schedule by apportioning the total space within the building according to the space devoted to each principle use. However, any accessory use which takes up less than 20 percent of the square footage of the principle use will be considered an incidental use, not a mixed use, when such use is necessary to carry out the principle use, i.e. warehouse area needed for a retail business.

Mobile home park: An area of land under one ownership where designated spaces for mobile home dwellings are rented. The overall operation is managed on a full- or part-time basis and provides various services and facilities for common use.

205 *Motel* means a place of lodging that provides sleeping accommodations and often a
206 restaurant. Motels generally offer free on-site parking and provide little or no meeting space.

207 *Multiple-family dwelling* means a building containing three or more dwellings intended to
208 be occupied primarily by permanent residents.

209 *Off-site improvements* means road improvements, other than those referenced in the
210 definition of site-related improvements, located outside of the boundaries of the parcel
211 proposed for development, which are required to serve the development's external trips.

212 *Percent of new trips* means the number of new trips generated by the land development
213 activity.

214 *Site-related improvements* means capital improvements and right-of-way dedications for
215 direct access improvements to the development in question. Direct access improvements
216 includes, but not limited to, the following:

- 217 (1) Site driveways and roads;
- 218 (2) Right- and left-turn lanes leading to those driveways and roads;
- 219 (3) Traffic control measures for those driveways and roads;
- 220 (4) Acceleration/deceleration lanes;
- 221 (5) Frontage roads;
- 222 (6) Median openings/closings; and
- 223 (7) Roads necessary to provide direct access to the development.

224 *Square foot*, for the purpose of the fee schedule, subsection 70-75(c)(3), means total
225 square footage of a building area, excluding overhangs.

226 *Thoroughfare road impact fee* and *fee* mean the fee required to be paid in accordance
227 with this article.

228 *Thoroughfare system* means all state roadways and any roadway that has been
229 designated by the Volusia County Council as either a county arterial or collector ~~or a~~
230 ~~municipality's arterial or collector~~ that is shown on the Future Traffic Circulation Map contained
231 in the Transportation Element of the Comprehensive Plan.

232 *Thoroughfare system plan* means the thoroughfare plan as set out and included in the
233 comprehensive plan.

234 *Traffic generation statement* means a documentation of proposed trip generation rates
235 submitted prior to and as a part of a traffic impact analysis. This documentation shall include
236 actual traffic generation information from a representative sampling of existing similar
237 developments.

238 *Trip* means a one-way movement of vehicular travel from an origin (one trip end) to a
239 destination (the other trip end).

240 *Trip generation* means the attraction or production of trips caused by a given type of land
241 development.

Zone means those geographical areas as identified on the attached exhibit A following this article.

SECTION III: Chapter 70, Article III, Section 70-75, Code of Ordinances, County of Volusia, is repealed in its entirety and replaced with a new Section 70-75 to read as follows:

Sec. 70-75. Imposition.

(a) *Applicability of fee.*

(1) Any person who makes or causes the making of an improvement to land which will generate additional traffic and which requires the issuance of a building permit, or any person who changes the use of any building to one which will generate additional traffic, shall be required to pay a thoroughfare road impact fee in the manner and amount set forth in this section.

(2) No person shall undertake construction of an improvement for which the fee imposed by this article is applicable without having paid the proper thoroughfare road impact fee imposed by this article. No person shall change the use or allow a change in use of any building where the fee imposed by this article is applicable without having paid the proper thoroughfare road impact fee imposed by this article.

(b) *Payment of fee required prior to issuance of certificate of occupancy, local business tax receipt or use permit.* No county or municipal certificate of occupancy, local business tax receipt or use permit for which a complete application is submitted after May 1, 1986, for any activity requiring payment of an impact fee pursuant to this article shall be issued unless and until the thoroughfare road impact fee required by this article has been paid. The obligation of a person to pay the fee imposed by this article shall not be extinguished by the inadvertent failure of the county to collect the fee at the time required.

(c) *Methods of determination.* The thoroughfare road impact fee for any development activity generating traffic in the county shall be determined either by using the method set forth in subsection (1) of this subsection (c) or by using the fee schedule set forth in subsection (3) of this subsection (c).

(1) *Independent calculation.* Any person may determine their thoroughfare road impact fee by providing an independent traffic documentation that their impact on the thoroughfare system is less than the thoroughfare road impact fee as determined under subsection (3) of this subsection (c). The documentation submitted shall show the basis upon which the thoroughfare road impact fee has been calculated, which shall conform to the following factors:

- a. The trip generation rate, trip length and the percent of new trips shall be documented together. In no event shall they be documented separately. All other variables in the thoroughfare road impact fee formula cannot be altered, but shall be based upon data current at the time this fee shall be due. Petitioners requesting to undertake an independent calculation may substitute the trip generation rate and the percent of new trips and trip length in the thoroughfare road impact fee formula with data

obtained from approved traffic surveys and actual traffic counts generated by approved traffic study sites. The thoroughfare road impact fee formula is identified and explained in subsection (2) of this subsection (c).

- b. The unit of measure used for trip generation in the independent calculation must be identical to the one used in the thoroughfare road impact fee formula, in order to measure accurately the project's impact on the thoroughfare system.
- c. If a single business or shopping center is studied, at least two sites within Volusia County must be tested. The results of each site must be added together and averaged to obtain an alternative trip generation rate, trip length and percent of new trips. The results can be substituted in the thoroughfare road impact fee formula. If the study results indicate a lower fee, the charges will be adjusted accordingly.
- d. If no suitable alternative site is available as determined by the county staff, the applicant may pay the thoroughfare road impact fee, and employ a licensed engineer to conduct a traffic study on the project site within six months after the enterprise is open for business. The traffic study timeframe and monitoring points must be approved by the county staff. Only the trip generation rate, trip length and the percent of new trips can be used in the analysis. Once the results of each sampling point are added together and averaged they may be substituted in the thoroughfare road impact fee formula. The results will be used to determine an appropriate impact fee. If the traffic study results indicate a lower fee and accepted by the county staff, the difference will be refunded to the applicant. All refunds are subject to section 70-78.
- e. This documentation shall be prepared and presented by licensed engineers. Specific actions are described in the Guidelines for Alternative Thoroughfare Road Impact Study. The applicant will review the guidelines prior to contacting Growth and Resource Management to obtain approval for the process and obtain a list of the documentation required, which may include but is not limited to: site plans, the number of manual or automated counts, number of personal surveys, the questionnaire format, location of the sampling stations and the layout of the study sites.

(2) *Thoroughfare impact fee formula.* The following formula shall be used to determine the impact fee per unit of development: formula for the Calculated Thoroughfare Road Impact Fee found in chapter five (5) of the Volusia County Impact Fee Study dated September 30, 2022, prepared by Benesch, and incorporated by reference in this ordinance, shall be used to determine the impact fee per unit of development. All terms and definitions in that study used for the calculation of the Thoroughfare Road Impact Fee are adopted for the purpose of the Thoroughfare impact fee formula.

Road Impact Fee	=	$(\frac{1}{2}) \times (TGR) \times (\%NT) \times (DF) \times (ATL) \times (CC/LM)$	-	(Credits)
		Weighted Capacity of 1 Lane Mile		

Where:

TGR	=	Trip Generation Rate	=	Number of trips generated based upon land use and Trip Generation per Volusia County
-----	---	----------------------	---	--

				Roadway Impact Fee Update Technical Memorandum dated September 25, 2003.
%NT	=	Percent of New Trips	=	Percent of trips generated by the Land Development Activity considered to be new trips on the roadway.
DF	=	Distribution Factor	=	Percent of trips utilizing the county's thoroughfare system = 70.3%, (excluding vehicle miles of travel (VMT) on Interstates.)
ATL	=	Average Trip Length	=	Based upon the land use activity, (excluding local roads.)
CC/LM	=	Construction Cost per Lane Mile	=	1,678,362 Construction costs per lane-mile shall be computed using an average cost per lane-mile derived from the data provided in Volusia County Roadway Impact Fee Update Technical Memorandum dated September 25, 2003.
		Weighted Capacity of 1 Lane Mile	=	10,232 vehicles per day on the thoroughfare road system.
		Credits	=	Value per unit of development for non-site-related improvements entitled to credits under the provisions of section 70-79(b)(2), made to the county's thoroughfare system by or on behalf of the development in question; credits shall also include an amount estimated to include the present value of future payments of gas taxes, motor fuel taxes, and other county taxes utilized to fund capacity expansion of the county's thoroughfare system. Per-unit credits shall be calculated assuming maximum development authorized for the particular land use or uses. Also, a one-half mile credit is applied to residential uses.

(3) *Fee schedule.* The following fee schedule has been prepared based on the formula and data presented in the Duncan Associates study dated October 2018. On March 4, 2021, and every year thereafter, thoroughfare road impact fees will increase based on the percentage of the previous year annual Florida Department of Transportation Producer Price Index for Highway and Street Construction or successor construction cost index no less than 3% and no more than 8%. Volusia County Impact Fee study prepared by Benesch dated September 30, 2022, including Table F-1 of the study. The total fees will be published on the Volusia County official website, volusia.org.

a. The thoroughfare road impact fee schedule is as follows:

<u>ITE Land Use Cate.</u>	<u>Land Use</u>	<u>Impact Unit</u>	<u>Calculated Impact Fee</u>
<u>Residential</u>			
<u>210</u>	<u>Single Family (Detached) 1,200 sf & Under</u>	<u>du</u>	<u>\$4,864</u>
	<u>Single Family (Detached) 1,201 to 1,700 sf</u>	<u>du</u>	<u>\$5,097</u>
	<u>Single Family (Detached) 1,701 to 2,200 sf</u>	<u>du</u>	<u>\$5,464</u>
	<u>Single Family (Detached) 2,201 to 3,000 sf</u>	<u>du</u>	<u>\$5,835</u>
	<u>Single Family (Detached) 3,001 sf & Over</u>	<u>du</u>	<u>\$6,215</u>
<u>215</u>	<u>Single Family (Attached)</u>	<u>du</u>	<u>\$4,733</u>
<u>220</u>	<u>Multi-Family (Low-Rise) 1-3 Stories</u>	<u>du</u>	<u>\$3,700</u>
<u>221/222</u>	<u>Multi-Family (Mid/High Rise) 4 Stories or more</u>	<u>du</u>	<u>\$2,489</u>
<u>240</u>	<u>Mobile Home/RV Unit (Park Only)</u>	<u>du</u>	<u>\$1,903</u>
<u>Transient, Assisted, Group</u>			
<u>310</u>	<u>Hotel</u>	<u>Room</u>	<u>\$2,387</u>
<u>320</u>	<u>Motel</u>	<u>Room</u>	<u>\$1,175</u>
<u>620</u>	<u>Nursing Home</u>	<u>1,000 sf</u>	<u>\$1,606</u>
<u>Recreational</u>			
<u>411</u>	<u>Public Park</u>	<u>Acre</u>	<u>\$309</u>
<u>430</u>	<u>Golf Course</u>	<u>Hole</u>	<u>\$15,998</u>
<u>445</u>	<u>Movie Theater</u>	<u>1,000 sf</u>	<u>\$13,673</u>
<u>Institutions</u>			

<u>560</u>	<u>Church</u>	<u>1,000 sf</u>	<u>\$2,350</u>
<u>565</u>	<u>Day Care Center</u>	<u>1,000 sf</u>	<u>\$6,234</u>
<u>Medical</u>			
<u>610</u>	<u>Hospital</u>	<u>1,000 sf</u>	<u>\$5,717</u>
<u>Office</u>			
<u>710</u>	<u>General Office</u>	<u>1,000 sf</u>	<u>\$5,396</u>
<u>714</u>	<u>Corporate Headquarters Bldg</u>	<u>1,000 sf</u>	<u>\$3,966</u>
<u>720</u>	<u>Medical Office 10,000 sf & Under</u>	<u>1,000 sf</u>	<u>\$11,114</u>
	<u>Medical Office greater than 10,000 sf</u>	<u>1,000 sf</u>	<u>\$15,999</u>
<u>Retail</u>			
<u>822</u>	<u>Retail/Shopping Center less than 40,000 sf gla</u>	<u>1,000 sf gla</u>	<u>\$3,212</u>
<u>821</u>	<u>Retail/Shopping Center 40,000 to 150,000 sf gla</u>	<u>1,000 sf gla</u>	<u>\$6,324</u>
<u>820</u>	<u>Retail/Shopping Center greater than 150,000 sf gla</u>	<u>1,000 sf gla</u>	<u>\$6,706</u>
<u>840/841</u>	<u>New/Used Automobile Sales</u>	<u>1,000 sf</u>	<u>\$7,831</u>
<u>849</u>	<u>Tire Superstore/Auto Repair</u>	<u>Bay</u>	<u>\$4,336</u>
<u>850</u>	<u>Supermarket</u>	<u>1,000 sf</u>	<u>\$9,347</u>
<u>862</u>	<u>Home Improvement Store</u>	<u>1,000 sf</u>	<u>\$3,935</u>
<u>880/881</u>	<u>Pharmacy/Drug Store with and w/out Drive-Thru</u>	<u>1,000 sf</u>	<u>\$5,865</u>
<u>890</u>	<u>Furniture Store</u>	<u>1,000 sf</u>	<u>\$1,827</u>
<u>Services</u>			
<u>911</u>	<u>Bank/Savings w/out Drive-Thru</u>	<u>1,000 sf</u>	<u>\$5,620</u>
<u>912</u>	<u>Bank/Savings w/ Drive-Thru</u>	<u>1,000 sf</u>	<u>\$10,062</u>
<u>931</u>	<u>Fine Dining/Quality Restaurant</u>	<u>1,000 sf</u>	<u>\$18,037</u>
<u>932</u>	<u>High-Turnover (Sit-Down) Restaurant</u>	<u>1,000 sf</u>	<u>\$18,441</u>
<u>934</u>	<u>Fast Food Restaurant w/ Drive-Thru</u>	<u>1,000 sf</u>	<u>\$52,410</u>
<u>941</u>	<u>Quick Lubrication Vehicle Shop</u>	<u>Bay</u>	<u>\$5,224</u>

943	Automobile Parts and Service Center	1,000 sf	\$3,770
944	Gas Station w/ Convenience Store less than 2,000 sf	Fuel pos.	\$6,367
945	Gas Station w/ Convenience Store 2,000 to 5,499 sf	Fuel pos.	\$9,789
	Gas Station w/ Convenience Store 5,500+ sf	Fuel pos.	\$12,806
Industrial			
110	General Industrial	1,000 sf	\$2,418
140	Manufacturing	1,000 sf	\$2,360
150	Warehouse	1,000 sf	\$853
151	Mini-Warehouse	1,000 sf	\$495

331

Land Use Type (ITE Code)	Unit	Trip Rate	% New Trips	Trip Length (mile)	Local Adjust. Factor	VMT/Unit	Total Fee
Single Family Detached (210)	Dwelling	9.44	100%	6.62	0.597	18.65	\$5,222
Multi Family, Low-Rise (220)	Dwelling	7.32	100%	5.10	0.597	11.14	\$3,119
Multi Family, Mid-Rise (222)	Dwelling	4.44	100%	5.10	0.597	6.76	\$1,893
Mobile Home/RV Park (240)	Space	5	100%	4.60	0.597	6.87	\$1,924
Shopping Center (820)	1,000 sq. ft.	37.74	68%	2.89	0.597	22.14	\$6,199
Bank w/Drive-Thru (912)	1,000 sq. ft.	100.02	46%	2.46	0.597	33.79	\$9,461
Bank w/o Drive-Thru (911)	1,000 sq. ft.	59.32	46%	2.46	0.597	20.04	\$5,611
Quality Restaurant (931)	1,000 sq. ft.	83.84	76%	3.14	0.597	59.72	\$16,722
High-Turnover Restaurant (932)	1,000 sq. ft.	112.18	70%	3.17	0.597	74.30	\$20,804
Fast Food Restaurant (934)	1,000 sq. ft.	470.94	57%	2.05	0.597	164.26	\$45,993
Auto Care (943)	1,000 sq. ft.	16.28	72%	3.62	0.597	12.67	\$3,548
New and Used Car Sales (841)	1,000 sq. ft.	27.06	78%	4.60	0.597	28.98	\$8,114

Supermarket (850)	1,000 sq. ft.	106.78	56%	2.08	0.597	37.13	\$10,396
Convenience Store (853)	1,000 sq. ft.	684.2	27%	1.51	0.597	83.27	\$23,316
Super Convenience Store (960)	1,000 sq. ft.	837.58	27%	1.51	0.597	101.93	\$28,540
Home Improvement Store (862)	1,000 sq. ft.	30.74	74%	6.27	0.597	42.57	\$11,920
Pharmacy w. Drive-Thru (880)	1,000 sq. ft.	90.08	32%	2.08	0.597	17.90	\$5,012
Furniture Store (890)	1,000 sq. ft.	6.3	54%	6.09	0.597	6.18	\$1,730
Tire Store/Auto Repair (849)	Bay	30.54	68%	2.44	0.597	15.13	\$4,236
Quick Lubrication Shop (941)	Bay	40.00	68%	1.97	0.597	15.99	\$4,477
Movie Theater (444)	1,000 sq. ft.	78.08	87%	2.22	0.597	45.01	\$12,603
Hotel (310)	Room	8.36	66%	6.26	0.597	10.31	\$2,887
Motel (320)	Room	3.34	66%	6.26	0.597	4.12	\$1,154
General Office (710)	1,000 sq. ft.	9.74	92%	5.15	0.597	13.78	\$3,858
Corporate Headquarters Bldg (714)	1,000 sq. ft.	7.94	92%	5.15	0.597	11.23	\$3,144
Medical Office (720)	1,000 sq. ft.	34.80	88%	5.55	0.597	50.73	\$14,204
Light Industrial (110)	1,000 sq. ft.	4.96	92%	5.15	0.597	7.01	\$1,963
Manufacturing (140)	1,000 sq. ft.	3.90	92%	5.15	0.597	5.52	\$1,546
Warehouse (150)	1,000 sq. ft.	1.74	92%	5.15	0.597	2.46	\$689
Mini-Warehouse (151)	1,000 sq. ft.	2.50	92%	3.10	0.597	2.13	\$596
Hospital (610)	1,000 sq. ft.	10.72	89%	2.59	0.597	7.38	\$2,066
Church (560)	1,000 sq. ft.	6.94	89%	2.59	0.597	4.78	\$1,338
Day Care Center (565)	1,000 sq. ft.	47.62	73%	2.03	0.597	21.06	\$5,897
Nursing Home (620)	1,000 sq. ft.	6.64	89%	2.59	0.597	4.57	\$1,280
Major Sports Facility	Parking Space	2.10	100%	2.59	0.597	1.62	\$454

Public Park (411)	Acre	0.78	90%	2.59	0.597	0.54	\$151
-------------------	------	------	-----	------	-------	------	-------

~~*The fees in the above schedule will take effect March 4, 2019. From March 4, 2019, through March 3, 2020, the fees collected will be 75% of the rate set forth in the schedule.~~

- b. In the event the impact fee rate for a particular land use is changed, ~~including the annual indexed increase, subsequent to the issuance application of a building permit and before the issuance of a certificate of occupancy, the impact fee will be the amount in effect on the date payment the application for a current or pending building permit is received. The impact fee rate for a void, expired, noncurrent, or denied building permit will be the changed impact fee.~~
- c. Credits for right-of-way and for completed and accepted non-site-related improvements, as described in section 70-79(b), will be determined for each application, and will be deducted from the thoroughfare road impact fees listed in the thoroughfare road impact fee schedule in effect at the time the thoroughfare road impact fee credits are created at the time thoroughfare road impact fees are to be paid. The value of right-of-way and non-site-related improvements for which credits may be allowed will be determined by the county engineer. Credits created under this subsection must be used within ~~seven~~ ten (10) years of the final certificate of occupancy for the approved development phase or 20 years of the date the credits are created, whichever is sooner. Credits created prior to January 1, 2000, must be used within seven years from March 4, 2019. The creation date is the date the instruments conveying legal title to the land or improvements given in exchange for the credits are recorded by the clerk of the court. The creation date for credits pursuant to a proportionate fair share payment will be the date of receipt of funds by the county. Credits not used within the time frame set forth in this subsection will expire. Credits granted under an agreement approved by the county council will be governed by the terms of such agreement.
- d. Notwithstanding any increases or decreases to the impact fee schedule, road construction and right-of-way credits shall be used to pay the impact fee due as provided in the fee schedule in existence at the time the credits were created. If the use of credits result in a partial payment for the amount due, the percentage of the remaining amount due will be based on the impact fee schedule in effect at the time of the application for the current or pending building permit.
- ~~e.~~ ed. Road construction and right-of-way credits issued by the county can only be transferred ~~only~~ within the zone the credit was created or to an adjacent zone which receives benefit from the improvement or contribution that generated the credits. All transfers must be approved by the county's director of growth and resource management or designee.
- ~~f.~~ fe. In the case of an expansion of an existing use on the same lot or an adjoining lot (which may be intersected by an easement or right-of-way) requiring the issuance of a building permit, the impact fee will be based upon the net increase in the impact fee for the new as compared to the previous use. ~~Provided, however, the impact fee will be reduced by 50 percent from the amount of the fee that would otherwise be due and payable for an expansion to an existing use. The county will be guided in this determination by the report titled "Institute of Transportation Engineers, Trip~~

Generation: ~~An Information Report~~" (~~sixth Handbook~~" (eleventh or any subsequent edition).

- gf. If a building meets the definition of mixed use building as defined by this chapter, the separate land uses as shown on the approved site plan or building plan will be identified and appropriately charged according to the fee schedule in subsection (3)a. If a building has residential and nonresidential uses, the square footage of the building identified as residential will be charged based on the number of dwelling units, and then, the square footage identified as nonresidential will be charged based on the remaining principle uses.
- hg. The thoroughfare road impact fee on a shopping center will be computed using one retail-commercial rate for all stores except for the out-parcels, which will be calculated using the rate for that land use from the thoroughfare road impact fee schedule.
- ih. If an affidavit is filed by the owner of real property with the county or municipality certifying that a farm building on a farm is exempt from issuance of a building permit under Florida law, then the building will also be exempt from impact fee charges.
- ji. When a floor plan/site plan shows flex office/warehouse use, the assessment will be calculated at the light industrial rate for this land use. The county reserves the right to conduct an independent study during the next ordinance update to review the flex office/warehouse use. When cumulative non-warehouse floor space per building exceeds 35 percent of the total floor space of the building, then the building owner will be required to pay additional road impact fees for that part over the 35 percent converted to other uses based on the road impact fee schedule as set forth in subsection 70-75(c)(3)a.
- j. ~~Thoroughfare road impact fees for private universities and colleges will be based on the number of additional full-time equivalent ("FTE") students that any improvements to the school are designed to accommodate. The fee will be based on 2.38 trips per FTE as indicated by the Institute of Transportation Engineers Trip Generation Manual, Sixty Edition. Individual studies will be utilized to demonstrate the average trip length for each proposed project, if the project results in an increase in the planned FTE student capacity. The college or university president will certify that the project will not increase said FTE's.~~
- k. If the type of development activity for which a building permit is applied is not specified on the fee schedule set out in this section, the county will use the fee applicable to the most nearly comparable type of land use on the fee schedule. The county will be guided in the selection of a comparable type by the report titled "Institute of Transportation Engineers, Trip Generation: ~~An Information Report~~" (~~sixth~~ eleventh or any subsequent editions). If the county determines that there is no comparable type of land use on the fee schedule set out in this section, then the fee will be determined by using traffic generation statistics contained in the report titled "Institute of Transportation Engineers, Trip Generation: ~~An Information Report Manual~~" (~~eleventh~~sixth or any subsequent edition), average trip length and percent of new trips based upon the best data available to the county and by applying the formula set forth in subsection (1) of this subsection.

SECTION IV: Chapter 70, Article III, Section 70-76, Code of Ordinances, County of

Volusia, is amended to read as follows:

Sec. 70-76. Payment.

(a) Time of payment; lien.

- (1) The person applying for the issuance of a building permit shall pay the thoroughfare road impact fee prior to the issuance of a certificate of occupancy, or the occupancy of the building. The county shall issue an impact fee statement to the applicant for a building permit. Such impact fee statement shall set forth the amount of the impact fee due.
 - a. The obligation for payment of the impact fee shall run with the land. However, this section shall not be construed to relieve an applicant of responsibility or liability for payment of the impact fees imposed by this article.
 - b. In the event the impact fee is not paid prior to the issuance of a certificate of occupancy for the affected impact construction, the county may collect the impact fee, together with interest, as provided in subsection 70-76(~~de~~).
 - c. If no building permit is required upon a change of use of a building, the fee imposed by this article shall be payable at such time as the person making such change shall be required to apply for a local business tax receipt.
- (2) All fees due under this article shall become a lien at the time of the issuance of the building permit or in the case of a change of use on the issuance of local business tax receipt, as the case may be, such fees shall be due, and shall remain a lien, coequal with the lien of all state, district, county and municipal taxes, superior in dignity to all other liens, titles and claims, until paid. Such lien shall be upon the land on which an improvement is made requiring the payment of fees and shall be for the amount of the fee required, as well as for all penalties and interest due under the provisions of this article.

(b) Method of payment. Payment of thoroughfare road impact fees shall be made to the County of Volusia.

~~*(c) Alternate method of payment within municipalities.* A municipality may, through interlocal agreement with the county, arrange for required fees to be paid directly to the municipality in accordance with the interlocal agreement. The failure of a municipality having entered into such an interlocal agreement to collect the required impact fee shall in no event relieve any person from the obligation to pay the fee imposed by this article.~~

(~~c~~d) Disposition of funds. All funds collected shall be properly identified by thoroughfare road impact fee zone and promptly transferred for deposit into the appropriate thoroughfare road impact fee trust fund to be held in separate accounts as determined in subsection 70-77(a) and used solely for the purposes specified in this article.

(~~de~~) Interest and administrative; penalty.

- (1) Interest at the rate set by law for judgments shall be due on all fees due under this article from the time such fee was due according to the terms of subsection (a) of this

section. The inclusion in this article of provisions concerning interest due shall be deemed to be cumulative of the county's rights already existing as a matter of law to prejudgment interest upon sums which are certain and due and payable at a specific time. Accordingly, the requirement for the payment of interest shall be deemed to apply retroactively to all fees which have previously become due under the terms of this article; and nothing in this article shall be construed in derogation of such right otherwise existing at law.

- (2) There shall be due and payable to the county an administrative penalty of five percent per month to a maximum of 25 percent of all fees unpaid at the time they were due according to the terms of this article. Such administrative penalty shall accrue monthly on the anniversary of the date when such fee should have been paid. In the case of fees previously due under the terms of this article, such penalty shall accrue at the rate of five percent per month to a maximum of 25 percent with the first monthly penalty accruing one month following the effective date of the ordinance from which this subsection (e) is derived.

The county attorney or the authorized representative may execute, serve upon the owner by certified mail and record a notice of nonpayment in the official records of the county, which shall contain the legal description of the property and the amount of the impact fee liability. Said notice shall thereupon operate as a lien against such property for the amount of the impact fee, together with interest, penalties, and the costs and fees for collection, coequal with the lien of all state, county, district and municipal taxes.

SECTION V: Chapter 70, Article III, Section 70-77, Code of Ordinances, County of

Volusia, is amended to read as follows:

Sec. 70-77. Trust funds; use of funds.

- (a) *Trust funds.* There are hereby established separate thoroughfare road impact fee trust funds, one for each thoroughfare road impact fee zone as shown in exhibit A, following this article and incorporated in this article by reference. Subsequent to the adoption of the ordinance from which this article is derived, should any parcel or area of land located within a zone be annexed into a municipality which, at the initial effective date of the ordinance from which this article is derived, was located within an adjacent zone, the boundaries of each zone shall be deemed amended as of the date of annexation so as to include the land annexed within the zone of such municipality. Such amendment of zones shall be for the purposes of this article only and shall not affect any prior payment of fees or expenditure of funds attributable to the annexed property.

- (b) *Use of funds; administrative fee.*

- (1) Funds collected from thoroughfare road impact fees shall be used for the purpose of capital improvements ~~to and for the~~ expansion of transportation facilities associated with the thoroughfare road system-plan. Such improvements shall be of the type

made necessary by new development. Final determination of projects to be funded using thoroughfare road impact fee revenues shall be made by the county council.

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

(3) Except as provided in subsection (5) of this subsection, funds shall be used exclusively for capital improvements or expansion within the traffic impact zone from which funds were collected, or for projects in other traffic impact zones which are of direct benefit to the traffic impact zone from which the funds were collected. Funds shall be deemed expended in the order in which they are collected.

(4) There shall be an transportation advisory committee (TAC) for each impact fee zone shown in exhibit A following this article. The TAC for each zone shall include a representative from each municipality within that zone which is then collecting or has provided for collection of fees prescribed by this article in accordance with subsection 70-76(c). The representative shall be the mayor, a city council or commission member, city manager or administrator, city clerk, city engineer, public works director or city planner or such other staff member designated by the city.

(5) The county public works department shall, each fiscal year, prepare a preliminary capital improvement road program to be funded from each thoroughfare road impact fee trust fund. The preliminary road program for each zone shall be presented to the TAC for that zone for its review and comment. Comments of each TAC shall be submitted to the county manager. The county manager after review of such comments, shall present to the county council the proposed capital improvement road program in the capital improvements element of the comprehensive plan, assigning funds, including any accrued interest, from the several thoroughfare road impact fee trust funds to specific road improvement projects and related expenses, along with any TAC comments received. Moneys, including any accrued interest, not assigned in any fiscal period shall be retained in the same thoroughfare road impact fee trust fund until the next fiscal period, except as provided by the refund provisions of this article.

(6) The county shall be entitled to collect and retain the actual costs of administering the impact fee program, which is in addition to the fee otherwise owed. This fee is collected to offset the costs of administering this article. The cost of administration shall be calculated on an annual basis and adopted by the county council by resolution. The total fee paid shall include the actual costs of administration in addition to the impact fee.

SECTION VI: Chapter 70, Article III, Section 70-78, Code of Ordinances, County of

Volusia, is amended to read as follows:

Sec. 70-78. Refunds.

(a) If a building permit expires and no construction has been commenced, then the fee payer shall be entitled to a refund of the initial total amount impact fee paid as a condition for its

issuance, except that the county shall retain its actual costs of administration to offset the costs of refund.

(b) Any funds not expended or encumbered by the end of the calendar quarter immediately following ~~seven~~ten (10) years from the date the thoroughfare road impact fee was paid shall, upon application of the feepayer within 180 days of that date, be returned to such feepayer with interest at the rate of five percent per annum.

SECTION VII: Chapter 70, Article III, Section 70-79, Code of Ordinances, County of

Volusia, is amended to read as follows:

Sec. 70-79. Exemptions and credits.

(a) *Exemptions.* The following activities shall be exempted from payment of the thoroughfare road impact fee:

(1) Alterations or expansions of an existing building where no additional units are created, and where no additional vehicular trips will be produced over and above that produced by the existing use.

(2) The construction of an accessory building which will not produce additional vehicular trips over and above that which is produced by the principal building or use of the land.

(3) The replacement of a building or structure with a new building or structure of equal size and use.

~~(3) The replacement of a legally permitted building in use on or after May 1, 1986 (the date upon which road impact fees were established in Volusia County), provided, however, new trips resulting from a redevelopment project that exceed the trips produced by the original use of the land shall be charged the applicable impact fee rate. Exempt trips calculated pursuant to this subsection may be used on the original parcel, adjoining parcels subject to a single planned master development approved by the local government, or on adjoining parcels combined under a common ownership or joint venture for the purpose of integrated redevelopment. Adjoining parcels may include land directly across a street or highway. Common ownership shall mean entities that share a majority of officers, members or partners.~~

~~a. All existing or previously demolished structures will be evaluated for size and most recent use.~~

~~1. If impact fees were paid, the trip exemption will be based on the use and size of the structure used to calculate the impact fee.~~

~~2. If impact fees were not paid, use will be determined based on the most recent business tax receipt issued for the address, the zoning, building permits, property appraiser data, and other public records, as well as documentation provided by the property owner.~~

3. ~~If building permits are not available due to the age of the structures, aerials will be used to calculate the square footage.~~
- b. ~~The trips will be calculated using the trip generation rate in the impact fee ordinance.~~
1. ~~If the development activity is not specified on the impact fee ordinance, the trip generation rate of the most nearly comparable type of land use on the fee schedule will be used.~~
2. ~~If there is no comparable development activity in the impact fee ordinance, the traffic generation statistics in the most recent version of the Institute of Transportation Engineers, Trip Generation: An information report shall be used.~~
- c. ~~If the project is a mixed use development that is under construction as a single phase, the property owner may apply the exempt trips to the highest impact fee rate first, and draw down the trips from the highest rate to the lowest rate until all exemptions are used. If the development is a multiphase project, trips will be applied based on the use of the buildings under construction in each phase.~~
1. ~~If the exempt trips are not completely used, the surplus will remain with the property identified for the exemption calculation under subsection 72-79(a)(3).~~
2. ~~If the exempt trips are completely used, the property owner will pay impact fees on the balance of the development at the applicable impact fee rate.~~
- d. ~~The calculation of the exempt trips can be administratively reviewed under section 70-81. The property owner may appeal the trip generation calculation and application of the trips and impact fee rate to the county council under section 70-82.~~
- (4) The construction of a sanctuary or church adjacent to and in connection with an existing sanctuary or church, notwithstanding that the existing church or facility is not demolished, but is used for other church activities, provided that the exemption from the fee which would otherwise be due shall be limited to an amount of square footage equal to the size of the existing sanctuary.

(b) *Credits.*

- (1) No credit shall be given for site-related improvements, except as provided for in subsection (b)(2) of this section.
- (2) All roadway improvements and/or right-of-way dedications required under a county or city development order or approval which are included within the roads contemplated in subsection 70-77(b)(1), except for those improvements deemed site-related, shall be based on the minimum level of service standards for county-maintained-thoroughfare roads as defined in the Volusia County Comprehensive Plan and will be credited against thoroughfare road impact fees. In addition, any person who constructs or contributes land, money or services for any road improvements (whether site-related or not) contemplated in subsection 70-77(b)(1) which are included within the most recently adopted five-year work program of the county or of the state department of transportation for the county shall be entitled to credits against thoroughfare road impact fees imposed pursuant to this article in accordance with subsection (b)(3) of this section based on the minimum level of service standards for county-maintained-thoroughfare roads as defined in the Volusia County Comprehensive Plan.
- (3) Credits shall apply to the person making the contribution. Such person shall have the right to transfer all or a portion of the available credits within limits described in

subsection 70-75(c)(3)(e)j. Any transfers of this type which occur shall be filed with growth and resource management department at the time of, or prior to the approval of a development order on a form provided by the county. The costs utilized in computing credits shall be reasonable, but not to exceed the actual costs of the improvements constructed or contributed. The person seeking determination of the credit shall present cost estimates and property appraisals prepared by qualified professionals to be utilized by the public works department and growth and resource management department in determining the amount of credits. The county retains the right to prepare its own cost estimate for its use in determining the credit allowed by this subsection.

SECTION VIII: SEVERABILITY - Should any word, phrase, sentence, subsection or section be held by a court of competent jurisdiction to be illegal, void, unenforceable, or unconstitutional, then that word, phrase, sentence, subsection or section so held shall be severed from this ordinance and all other words, phrases, sentences, subsections, or sections shall remain in full force and effect.

SECTION IX: CONFLICTING ORDINANCES - All ordinances, or part thereof, in conflict herewith are, to the extent of such conflict, repealed.

SECTION X: AUTHORIZING INCLUSION IN CODE. The provisions of this ordinance shall be included and incorporated into the Code of Ordinances of the County of Volusia, as additions or amendments thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

SECTION XI: EFFECTIVE DATE. This ordinance shall take effect on March 6, 2023 upon filing a certified copy with the Department of State.


ADOPTED BY A TWO-THIRDS VOTE OF THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, IN OPEN MEETING DULY ASSEMBLED IN THE COUNTY COUNCIL CHAMBERS AT THE THOMAS C. KELLY ADMINISTRATION CENTER, 123 WEST INDIANA AVENUE, DELAND, FLORIDA, THIS 6TH DAY OF DECEMBER, 2022.

ATTEST: COUNTY COUNCIL
VOLUSIA COUNTY, FLORIDA

658
659
660
661
662



George Recktenwald
County Manager



For Jeffrey S. Brower
County Chair

