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ORDINANCE NO. 2020 - __

AN ORDINANCE AMENDING CHAPTER 23 (“IMPACT FEES”) BY AMENDING SECTION 23-29 (“IMPACT FEES, WITH ANNUAL INDEXING; COMPARABLE USES; ALTERNATIVE IMPACT FEE CALCULATION; PERIODIC UPDATES; TIME OF PAYMENT”); SECTION 23-60 (“FEES; COMPARABLE USES, ADJUSTMENTS; PERIODIC ADJUSTMENTS; TIME OF PAYMENT”); SECTION 23-91 (“LIMITATION OF ISSUANCE OF BUILDING PERMITS”); SECTION 23-98 (“EXEMPTIONS AND DISCOUNTS”); SECTION 23-142 (“PAYMENT”); SECTION 23-180 (“IMPACT FEES; COMPARABLE USES; ADJUSTMENTS; PERIODIC ADJUSTMENTS; TIME OF PAYMENT”); AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Novel Coronavirus Disease 2019 (COVID-19) is a severe acute respiratory illness that can spread among humans through respiratory transmission;

WHEREAS, on March 1, 2020, Florida Governor Ron DeSantis issued Executive Order 20-51 directing the Florida Department of Health to issue a Public Health Emergency;

WHEREAS, on March 1, 2020, the State Surgeon General and State Health Officer declared a Public Health Emergency exists in the State of Florida as a result of COVID-19;

WHEREAS, on March 13, 2020, Orange County Mayor Jerry L. Demings issued emergency Executive Order 2020-01, finding that a State of Local Emergency exists in both incorporated and unincorporated Orange County, Florida;

WHEREAS, the Board of County Commissioners (“BCC”) recognizes that in addition to the public health impacts, Orange County has suffered negative economic impacts from COVID-19;

WHEREAS, the BCC hereby finds it is in the best interest of the citizens of Orange County to try to help prevent further damage to the local economy.

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74 been executed and the service charge required under subsection (e)(4) has been
75 paid.

76 (3) For any such eligible project where payment of the
77 applicable impact fee is deferred, the impact fee for the entire project shall be
78 paid not later than when pre-power is authorized for the first building or the first
certificate of occupancy, temporary or permanent, is issued for the project.

80 (4) a. If the law enforcement impact fee is deferred at the
81 time of issuance of the building permit as authorized by subsection (e)(2) for an
82 eligible commercial project, a service charge shall be assessed and a notice of
83 nonpayment setting forth the legal description of the property and the amount of
84 the impact fee liability shall be executed by the county. The county shall serve
85 this notice upon the owner by certified mail and place a lien against such
86 property for the amount of the impact fee, and all interest, penalties, and the
costs and fees for collection, coequal with the lien of all state, county, district
and municipal taxes.

88 b. Upon payment of the impact fee and any
89 associated costs and fees, the county shall promptly record the notice of
90 payment in the official records of the county, thereby releasing the lien.

92 (5) In the event the law enforcement impact fee is not paid
93 prior to the authorization of pre-power or issuance of the first certificate of
94 occupancy (temporary or permanent) under subsection (e)(2) above, the county
shall make demand for payment of the fee. If the fee is not paid within fourteen
(14) days after the county makes demand:

96 a. The county may collect the law enforcement
97 impact fee, interest from the date payment was due at the rate fixed by state
98 statute for judgments, the costs of such collection, and reasonable attorney's
fees; and

100 b. For an eligible housing project, the building owner
101 and/or license holder who obtained the building permit may be prohibited from
102 obtaining any other building permits within the county until the applicable law
enforcement impact fee (including any costs and fees) has been paid.

104 (6) The foregoing in this subsection 23-29(e)
105 notwithstanding, for the period beginning August 3,2020, and ending July 30,
106 2021, payment of the law enforcement impact fee may be made not later than
107 when pre-power is authorized for the first building, or prior to issuance of the
108 first certificate of occupancy, temporary or permanent, whichever occurs earlier.

110 In all other respects, Section 23-29 shall remain unchanged.

Section 3. Amendments to Section 23-60 (“Fees; comparable uses, adjustments;

112 *periodic adjustments; time of payment.”)*. Subsection 23-60(e) is hereby amended to read as
follows:

114 **Sec. 23-60. Impact fees, with annual indexing; comparable**
116 **uses; alternative impact fee calculation;**
periodic updates; time of payment.

118 ***

(e) *Time of payment.*

120 (1) Except as otherwise permitted by
122 subsection (e)(2) through (e)(6) or mandated by state law, fire
124 rescue impact fees imposed on all new development shall be paid
as a condition to the issuance of a building permit. In the case of
a mobile home, the fee shall be paid at the issuance of a tie-down
permit.

126 (2) For the following types of projects, the fire
128 rescue impact fee may be paid prior to the authorization of
prepower or issuance of a certificate of occupancy (temporary or
130 otherwise), but no prepower or certificate of occupancy shall be
authorized or issued until the impact fee has been paid as
provided by subsection (e)(3):

132 a. A certified affordable housing
134 project, provided an agreement setting forth the terms and
conditions of the discount and deferral of the impact fee has been
executed; and

136 b. A new commercial project (a project
138 without single-family homes or duplexes) with a building permit
valuation of at least one million dollars (\$1,000,000.00), provided
140 an impact fee deferral form has been executed and the service
charge required under subsection (e)(4) has been paid.

142 (3) For any such eligible project where
144 payment of the impact fee is deferred, the impact fee for the
entire project shall be paid not later than when prepower is
authorized for the first building or the first certificate of
occupancy, temporary or permanent, is issued for the project.

146 (4) a. If the fire rescue impact fee is
148 deferred at the time of issuance of the building permit as
authorized by subsection (e)(2) for an eligible commercial
150 project, a service charge shall be assessed and a notice of
nonpayment setting forth the legal description of the property

152 and the amount of the impact fee liability shall be executed by
153 the county. The county shall serve notice upon the owner by
154 certified mail and place a lien against such property for the
155 amount of the impact fee, and all interest, penalties, and the
156 costs and fees for collection, coequal with the lien of all state,
county, district, and municipal taxes.

158 b. Upon payment of the impact fee and
159 any associated costs and fees, the county shall promptly record
160 the notice of payment in the official records of the county,
161 thereby releasing the lien.

162 (5) In the event the fire rescue impact fee is not
163 paid prior to the authorization of prepower or issuance of the first
164 certificate of occupancy (temporary or permanent), the county
165 shall make demand for payment of the fee. If the fee is not paid
166 within fourteen (14) days after the county makes demand:

168 a. The county may collect the fire
169 rescue impact fee, interest from the date payment was due at the
170 rate fixed by state statute for judgments, the costs of such
171 collection, and reasonable attorney's fees; and

172 b. For an eligible housing project, the
173 building owner and/or license holder who obtained the building
174 permit may be prohibited from obtaining any other building
175 permits within the county until the applicable fire rescue impact
176 fee (including any costs and fees) has been paid.

176 (6) For single-family homes and duplexes, the
177 applicant may elect to pay the applicable impact fee no later than
178 immediately prior to the issuance of the certificate of occupancy.

180 (7) The foregoing in this subsection 23-60(e)
181 notwithstanding, for the period beginning August 3, 2020, and
182 ending July 30, 2021, payment of the fire rescue impact fee may
183 be made not later than when pre-power is authorized for the first
184 building, or prior to issuance of the first certificate of occupancy,
temporary or permanent, whichever occurs earlier.

In all other respects, Section 23-60 shall remain unchanged.

186 ***Section 4. Amendments to Section 23-91 (“Limitation of Issuance of Building***
Permits”). Section 23-91 is hereby amended to read as follows:

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Sec. 23-91. Limitation of issuance of building permits.

190 (a) Except as permitted by subsection (b), no person
192 shall carry out any traffic-generating development unless the
194 applicable impact fee pursuant to section 23-92 or alternative
196 impact fee pursuant to section 23-93 was paid or properly
deferred at the time of issuance of the building permits, to be
clearly identified as "paid or deferred under written protest" in the
case of an anticipated appeal or disagreement with the
assessment.

198 (b) Deferral of impact fees.

200 (1) For the following types of projects, the
202 transportation impact fee may be paid prior to the issuance of a
certificate of occupancy (temporary or otherwise), but no
certificate of occupancy shall be authorized or issued until the
impact fee has been paid:

204 a. A certified affordable housing
206 project, provided an agreement setting forth the terms and
conditions of the discount and deferral of the impact fee has been
executed;

208 b. A new commercial project
210 (including a multifamily project without single-family homes or
duplexes) with a building permit valuation of at least one million
212 dollars (\$1,000,000.00), provided an impact fee deferral form has
been executed and the service charge required under subsection
(b)(3) has been paid; or

214 c. A single-family home or duplex,
provided an impact fee deferral form has been executed.

216 (2) For any such eligible project that defers
218 payment of the applicable transportation impact fee, the impact
fee for the entire project must be paid when the first certificate of
occupancy, temporary or permanent, is issued.

220 (3) Lien and service charge.

222 a. If the transportation impact fee is
224 deferred at the time of issuance of the building permit, as
authorized by subsection (b)(1) for an eligible commercial
226 project, a service charge shall be assessed and a notice of
nonpayment setting forth the legal description of the property and
228 the amount of the impact fee liability shall be executed by the
county. The county shall serve this notice upon the owner by
certified mail and record it in the official records of the county.
230 This notice shall thereupon operate as a lien against such property
for the amount of the impact fee and all interest, penalties, costs,
232 and fees for collection, coequal with lien(s) of any and all state,
county, district, and municipal taxes.

234 b. Upon payment of the impact fee, the
235 county shall promptly serve a notice of payment upon the owner
236 by certified mail and record the notice of payment in the official
records of the county.

238 (4) In the event the impact fee is not paid prior
239 to the issuance of a certificate of occupancy (temporary or
240 otherwise), the county shall make demand for payment of the fee.
If the fee is not paid within fourteen (14) days after the county
241 makes demand:

242 a. The county may collect the
243 transportation impact fee, interest from the date payment was due
244 at the rate fixed by state statute for judgments, the costs of such
collection, and reasonable attorneys' fees; and

246 b. For an eligible project, the building
247 and/or license holder who pulled the building permit may be
248 prohibited from pulling any other building permits until the
transportation impact fee has been paid.

250 (c) The foregoing in this section 23-91
251 notwithstanding, for the period beginning August 3, 2020, and
252 ending July 30, 2021, payment of the transportation impact fee
253 may be made not later than when pre-power is authorized for the
254 first building, or prior to issuance of the first certificate of
occupancy, temporary or permanent, whichever occurs earlier.

256 ***Section 5. Amendments to Section 23-98 (“Exemptions and Discounts”).***

258 Subsection 23-98(a) is hereby amended to read as follows:

Sec. 23-98. Exemptions and discounts.

260 (a) *Exemptions.* To the extent no additional traffic is
261 anticipated to be generated, the following shall be exempted from
262 payment of transportation impact fees:

264 (1) Alterations of an existing structure where
the use and total footprint/size are not changed.

266 (2) The construction of up to twenty-five (25)
267 percent of the square footage relative to a primary use,
268 individually or cumulatively, of an accessory use that is
subordinate and intrinsic to the primary use, not measured in the
269 same units for transportation impact fee assessments as the
270 primary use, and typically included in the transportation impact
271 fee rate for the primary land use (e.g., a hotel's lobby space,
272 laundry facilities, etc.).

274 (3) The replacement of a building or structure
with an equivalent new building or structure, provided the
276 previous building or structure was located on the same parcel site
or structure is different from that of the previous structure, the
278 exemption shall be limited to the current equivalent fee for the
original structure. Documentation of the existence of the building
280 or structure shall be submitted to the Community, Environmental,
and Development Services Department, Fiscal and Operational
282 Support Division. This section is not intended to preclude
architectural enhancements or facade improvements to an existing
284 structure as long as no additional net usable square footage is
added. When determining the amount of exemption, the highest
286 and best use previously assessed and paid shall be used.

288 (4) The construction of agricultural structures
as defined in section 23-88.

290 (5) Golf courses constructed in conjunction
with and as part of a resort hotel or time share.

292 (6) Toll facility service plazas.

(7) Covered parking or parking garages.

294 (8) County facilities constructed for
nonproprietary governmental purposes.

296 (9) Structures or buildings that, due to and as a
part of condemnation proceedings by the county and subject to a
formal written agreement between the owner and the county, are
298 moved to another parcel within the same impact fee zone.

300 (10) Structures or buildings constructed entirely
by or for Orange County Public Schools or by or for a Florida
College System Institution or State University, as those terms are
302 defined in Section 1000.21, Florida Statutes.

304 (11) The foregoing section 23-98(a)(3)
notwithstanding, for the period from November 13, 2009, through
306 August 15, 2014, and regardless of the impact on traffic
generation rates, change in use permits and alterations of a
308 residential structure existing as of September 17, 2008, where the
use is changed, provided such new use is located within the urban
service area boundary, is consistent with the existing zoning of
310 such property and consistent with the county's current
Comprehensive Plan, and provided further that the size of the
312 existing structure is not increased, and the footprint of the
existing structure is not modified, shall be exempted from
314 payment of the transportation impact fee in an amount up to, but
not exceeding, one hundred thousand dollars (\$100,000.00).

356 distinct from all other revenues and shall be transferred at
358 least quarterly to the school board for deposit in the
school impact fee trust account.

360 (c) The payment of the school impact fee shall
362 be in addition to all other fees, charges or assessments due
for the issuance of a building permit and the subsequent
certificate of occupancy.

364 (d) The obligation of payment of the school
impact fee shall run with the land.

366 (e) The impact from the development shall be
368 calculated at the time of issuance of the building permit. If
the applicant for a single-family or duplex home elects to
370 pay the applicable impact fee after the issuance of the
372 building permit, but no later than prior to the issuance of
the certificate of occupancy, the impact fee due shall be
calculated to be the fee due on the day of issuance of the
building permit.

374 (f) The foregoing in this section 23-142
376 notwithstanding, for the period beginning August 3, 2020,
378 and ending July 30, 2021, payment of the school impact
fee may be made not later than when pre-power is
authorized for the first building, or prior to issuance of the
first certificate of occupancy, temporary or permanent,
whichever occurs earlier.

380 *Section 7. Amendments to Section 23-180 (“Impact fees; comparable uses,*
382 *adjustments; periodic adjustments; time of payment.”). Subsection 23-180(e) is hereby*
amended to read as follows:

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386 **Sec. 23-180. Impact fees; comparable uses, adjustments;
periodic adjustments; time of payment.**

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390 (e) Time of payment.
392 (1) Except as otherwise permitted herein or as
394 mandated by state law, parks and recreation impact fees imposed
396 on new residential development shall be paid as a condition to the
issuance of a building permit; for a mobile home, the impact fee
shall be paid at the issuance of a tie-down permit. For the
following types of projects, the parks and recreation impact fee
may be paid prior to the issuance of a certificate of occupancy

(temporary or permanent) provided an impact fee deferral form has been executed:

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a. A certified affordable housing project, as determined by the manager of the county's housing and community development division or a designee;

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b. New multifamily projects (without single-family homes, townhomes, duplexes, triplexes, or quadraplexes) with a building permit valuation of at least one million dollars (\$1,000,000.00); and

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c. A single-family home or duplex.

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(2) For any such eligible project that defers payment of the applicable parks and recreation impact fee, the impact fee for the entire project shall be paid prior to issuance of the initial certificate of occupancy, temporary or permanent, for the project; provided, however, that for multi-building projects:

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a. the impact fee may be paid on a building-by-building basis prior to issuance of the first certificate of occupancy, temporary or permanent, for each building in the project subject to such impact fee;

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b. a service charge will be assessed and a notice of nonpayment setting forth the legal description of the property and the amount of the impact fee liability shall be executed by the county;

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c. the county shall place a lien against such property and record it in the official records of the county for the amount of the impact fee, all interest, and the costs and fees for collection, coequal with the lien of all state, county, district, and municipal taxes; and

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d. upon payment of the impact fee and any associated fees and costs, the county shall promptly record the notice of payment in the official records of the county thereby releasing the lien.

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(3) In the event the parks and recreation impact fee is not paid prior to issuance of the initial certificate of occupancy (temporary or otherwise), the county shall make demand for payment of the impact fee. If the impact fee is not paid within fourteen (14) days after the county makes demand:

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a. The county may collect the impact fee, interest from the date payment was due at the rate fixed by state statute for judgments, the costs of such collection, and reasonable attorneys' fees; and

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438 b. For an eligible project, the building
440 owner and/or license holder who obtained the building permit(s)
442 may be prohibited from obtaining any other building permits
within the county until the applicable parks and recreation impact
fee (including any costs and fees) has been paid.

444 (4) The foregoing in this section 23-180
notwithstanding, for the period beginning August 3, 2020, and
ending July 30, 2021, payment of the park impact fee may be
made not later than when pre-power is authorized for the first
building, or prior to issuance of the first certificate of occupancy,
448 temporary or permanent, whichever occurs earlier.

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452 *Section 8. Effective Date.* This ordinance shall take effect on pursuant to general
454 law.

ENACTED THIS ____ DAY OF _____, 2020.

456 **ORANGE COUNTY, FLORIDA**
458 By: Board of County Commissioners

460 By: _____
462 Jerry L. Demings
Orange County Mayor

464 **ATTEST:** Phil Diamond, CPA, Orange County Comptroller
As Clerk of the Board of County Commissioners

466 By: _____
468 Deputy Clerk

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