



Interoffice Memorandum

March 12, 2021

TO: Mayor Jerry L. Demings
—AND—
County Commissioners

FROM: Jon V. Weiss, P.E., Director
Planning, Environmental, and Development
Services Department

CONTACT PERSON: Whitney E. Evers, Assitant County Attorney
County Attorney's Office
407-836-7321

SUBJECT: March 23, 2021 – Adoption Public Hearing
Ordinance amending Orange County Code Article V, Chapter
23, School Impact Fees

On Tuesday, December 1, 2020, the Board made a finding of consistency with the County's Comprehensive Plan and approved the updated Orange County Public Schools School Impact Fee Study Final Report dated September 18, 2020 (the "Study"), and an Ordinance updating School Impact Fees and Associated Student Generation Rates. The School Impact Fee Ordinance adopted a phased increase of the school impact fees with fifty percent of the increase effective on April 2, 2021, and the remaining fifty percent increase effective July 3, 2021.

On January 19, 2021, House Bill 337 ("HB 337") was filed by Representative DiCeglie for the 2021 Florida Legislative Session; and on January 25, 2021, Senate Bill 750 ("SB 750" and together with HB 337, the "Bills") was filed as an identical companion bill to HB 337. The Bills contain various provisions related to the Florida Impact Fee Act codified at §163.31801, Florida Statutes, including, a provision that proposes to cap annual increases to impact fees, effective on July 1, 2021.

While the legislative outcomes of the Bills is uncertain, each bill poses a significant negative financial risk to the County in its ability to implement the planned phased school impact fee increase on July 3, 2021.

The proposed amendments to Orange County Code Article V, Chapter 23, School Impact Fees revise the school impact fee schedule in Section 23-141 to delete the scheduled first phase of the increase originally scheduled to go into effect on April 2,

Page Two

March 23, 2021 – Public Hearing

Ordinance amending Orange County Code Article V, Chapter 23, School Impact Fee

2021, and instead have the full fee increase effective June 27, 2021, six days earlier than originally scheduled. The ordinance also provides a minor correction to the definition of student housing and modifies certain dates to conform with the new proposed schedule for the increased school impact fees. The anticipated effective date of the ordinance and fee increase meet the requirements of §163.31801, Florida Statutes providing for a 90-day notice.

ACTION REQUESTED: Make a finding of consistency with the County's Comprehensive Plan and approve An Ordinance Amending the Orange County School Impact Fee Ordinance, Codified at Article V, Chapter 23 of the Orange County Code; Amending Section 23-121 ("Definitions"), Section 23-141 ("Imposition"), and Section 23-142 ("Payment"); Providing for Updated School Impact Fees, Including New and Increased Fees in Certain Land Use Categories; Making an Economic Impact Determination; Providing Effective Dates; and Directing the Posting of Notices of New and Increased Impact Fees. All Districts

JVW/ABM:fb

Attachment

c: Byron Brooks, County Administrator
Christopher R. Testerman, AICP, Deputy County Administrator
Joel Prinsell, Deputy County Attorney
Whitney E. Evers, Assistant County Attorney
Amy Envall, Esq., General Counsel, OCPS
Dale Kelly, Chief Financial Officer, OCPS
Jad M. Brewer, Esq. Staff Attorney III, OCPS
Steven Thorp, AICP, Senior Administrator, OCPS

ORDINANCE NO. 2021-__

AN ORDINANCE AMENDING THE ORANGE COUNTY SCHOOL IMPACT FEE ORDINANCE, CODIFIED AT ARTICLE V, CHAPTER 23, OF THE ORANGE COUNTY CODE; AMENDING SECTION 23-121 (“DEFINITIONS”), SECTION 23-141 (“IMPOSITION”), AND SECTION 23-142 (“PAYMENT”); PROVIDING FOR UPDATED SCHOOL IMPACT FEES, INCLUDING NEW AND INCREASED FEES IN CERTAIN LAND USE CATEGORIES; MAKING AN ECONOMIC IMPACT DETERMINATION; PROVIDING EFFECTIVE DATES; AND DIRECTING THE POSTING OF NOTICES OF NEW AND INCREASED SCHOOL IMPACT FEES

WHEREAS, on December 1, 2020, the Orange County Board of County Commissioners (the “Board”) held a public hearing at which Ordinance No. 2020-35 (the “School Impact Fee Ordinance”) was adopted; and

WHEREAS, the School Impact Fee Ordinance approved an increase in school impact fees based upon data contained in the Orange County Public Schools School Impact Fee Update Study Final Report dated September 18, 2020, which the Board adopted and incorporated by reference into the School Impact Fee Ordinance; and

WHEREAS, the School Impact Fee Ordinance adopted a phased increase of the school impact fees with fifty percent of the increase effective on April 2, 2021, and the remaining fifty percent increase effective July 3, 2021; and

WHEREAS, on January 19, 2021, House Bill 337 (“HB 337”) was filed by Representative DiCeglie for the 2021 Florida Legislative Session; HB 337 received its first reading on March 2, 2021; and

WHEREAS, on January 25, 2021, Senate Bill 750 (“SB 750” and together with HB 337, the “Bills”) was filed by Senator Gruters for the 2021 Florida Legislative Session as a companion bill to HB 337; SB 750 is identical to HB 337 and was introduced on March 2, 2021; and

WHEREAS, the Bills contain various provisions related to the Florida Impact Fee Act codified at §163.31801, F.S., including, a provision that proposes to cap annual increases to impact fees; and

WHEREAS, if enacted, the Bills may become effective on July 1, 2021; and

38 *WHEREAS*, in order to protect the citizens of Orange County and preserve the will of the
Board under the home rule authority of Orange County, Florida, to implement the increases in
40 school impact fees contemplated by the School Impact Fee Ordinance, the Board hereby adopts
this ordinance to remove the phased increase in school impact fees originally scheduled for April
2, 2021, and July 3, 2021, and to implement the full increase on June 27, 2021.

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BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF

44 **ORANGE COUNTY, FLORIDA:**

Section 1. Amendments; In general. Orange County Code, Chapter 23, Impact Fees,
46 is hereby amended in part by amending Article V, School Impact Fees, Section 23-121
("Definitions"), Section 23-141 ("Imposition"), and Section 23-142 ("Payment"), with
48 amendments being indicated below in Sections 2 through 5 with the new language being shown
by underlines and deleted language being shown by ~~strike-throughs~~.

50 *Section 2. Amendments to Section 23-121.* Orange County Code Chapter 23, Impact
Fees, Article V, School Impact Fees, Section 23-121, "Definitions," is hereby amended to read
52 as follows:

54 **ARTICLE V
SCHOOL IMPACT FEES**

56 **DIVISION 1. GENERALLY**

Sec. 23-121. Definitions.

58 When used in this article, the following terms shall have
the following meanings, unless the context otherwise clearly
60 requires:

* * *

62 *Dwelling unit* shall mean a building, or a portion thereof,
which is designed for residential occupancy, consisting of one (1)
64 or more rooms which are arranged, designed or used as living
quarters for one (1) family only, but excluding "time-share estates"

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and "time-share licenses" as defined in chapter 721, Florida Statutes; "student housing" as defined in this Article V~~section 38-1, Orange County Code~~; ~~or~~ and "housing for older persons" as further defined in section 23-161(6), Orange County Code.

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Student housing shall mean any multi-family development or portion thereof where the dwelling units are designed and constructed as three (3) or more bedrooms with three (3) or more bathrooms which is marketed and/or rented to students attending a local college, university, community college, or private school, or any multi-family development or portion thereof comprised of dwelling units consisting of three (3) or more bedrooms and less than three (3) ~~bathrooms~~ bedrooms where the bedrooms are leased separately and which is marketed and/or rented to students attending a local college, university, community college, or private school.

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Section 3. Amendments to Section 23-141(b). Orange County Code Chapter 23,

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Impact Fees, Article V, School Impact Fees, Section 23-141(b), "Imposition," is hereby amended to read as follows:

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**DIVISION 2
SCHOOL IMPACT FEES**

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Sec. 23-141. Imposition.

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* * *

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(b) Effective from ~~January~~ March 26, 2021, until ~~April~~ June 26, 2021, all residential construction occurring within the county, for which building permits are issued, within the unincorporated area and the boundaries of the various municipalities, shall pay the following school impact fee:

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(1) Single-family detached house (per dwelling unit) \$8,784.00

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(2) Multifamily dwelling unit (per dwelling unit)
.....\$5,919.00

(3) Townhouse dwelling unit (per dwelling unit).....\$6,930.00

100 (4) Mobile home (per dwelling unit) \$6,088.00

102 **Section 4. Amendments to Section 23-141(c).** Orange County Code Chapter 23,
Impact Fees, Article V, School Impact Fees, Section 23-141(c), "Imposition," is hereby amended
104 to read as follows:

Sec. 23-141. Imposition.

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108 (c) Effective from April 2, 2021, until July 2, 2021 ~~June~~
27, 2021, all residential construction occurring within the county,
110 for which building permits are issued, within the unincorporated
area and the boundaries of the various municipalities, shall pay the
following school impact fee:

School Impact Fee Schedule

Land Use Type	Impact Fee
Single Family Detached <2,000 sq. ft. ^a	\$ 8,807.00
Single Family Detached 2,000 – 2,499 sq. ft. ^a	9,149.00
Single Family Detached 2,500 – 2,999 sq. ft. ^a	10,093.00
Single Family Detached 3,000 – 3,999 sq. ft. ^a	10,400.00
Single Family Detached >= 4,000 sq. ft. ^a	9,184.00
Multi-family (High Rise)	307.00
Multi-family (Non High Rise)	4,920 6,335.00
Townhouse	5,426 7,868.00
Mobile Home	5,217 8,238.00

*-square footage shall include the heated / cooled living area

114 ~~Effective July 3, 2021, all residential construction occurring within~~
the county, for which building permits are issued within the
116 unincorporated area and the boundaries of the various
municipalities, shall pay the following school impact fee:

School Impact Fee Schedule

<u>Land Use Type</u>	<u>Impact Fee</u>
Single Family Detached <2,000 sq. ft.*	\$8,829.00
Single Family Detached 2,000 – 2,499 sq. ft.*	9,513.00
Single Family Detached 2,500 – 2,999 sq. ft.*	11,402.00
Single Family Detached 3,000 – 3,999 sq. ft.*	12,015.00
Single Family Detached >= 4,000 sq. ft.*	9,584.00
Multi-family (High Rise)	307.00
Multi-family (Non High Rise)	6,751.00
Townhouse	8,805.00
Mobile Home	10,387.00

* square footage shall include the heated / cooled living area

120 (The school impact fee schedule set forth in this subsection (c) was originally temporarily adopted pursuant to
 122 Section 5 of Ordinance Number 2011-04, effective May 13, 2011, and became permanent pursuant to Section 2 of
 Ordinance Number 2011-05, effective June 10, 2011.)

Section 5. Amendments to Section 23-142. Orange County Code Chapter 23, Impact

124 Fees, Article V, School Impact Fees, Section 23-142, "Payment," is hereby amended to read as
 follows:

126 **Sec. 23-142. Payment.**

* * *

128 (e) The impact of a development for which the
 county received a legally sufficient application prior to
 130 ~~January 1~~ June 27, 2021, shall be calculated at the impact
 fee rates set forth in Section 23-141(b) hereof; the impact
 132 of all other development shall be calculated at the time of
 issuance of the building permit. If the applicant for a
 134 single-family or duplex home elects to pay the applicable
 impact fee after the issuance of the building permit, but no
 136 later than prior to the issuance of the certificate of
 occupancy, the impact fee due shall be calculated to be the
 138 fee due on the day of issuance of the building permit.

* * *

140 **Section 6. Economic impact determination.** The Board does hereby determine and
find, pursuant to section 30-2(b)(2), that sufficient information has been provided for the Board
142 to assess the economic impact of this article on the development of real property in the county.
The Board does hereby determine and find that no further economic impact statement or
144 economic impact information is required in this matter. If the ongoing planning studies and
periodic review reveal a detrimental economic impact, this article shall be reviewed and revised
146 accordingly.

Section 7. Effective dates; Notice of increased impact fees.

148 (a) Sections 1, 2, 3, 5, 6, and 7 of this ordinance shall become effective on
March 26, 2021. In order to comply with the notice requirement contained in Section
150 163.31801(3)(d), Section 4 of this ordinance shall become effective on June 27, 2021.

 (b) Pursuant to Section 163.31801(3)(d), Florida Statutes, the Clerk of the
152 Board of County Commissioners shall publish a legal notice in *The Orlando Sentinel* on or
before March 26, 2021, stating that the Board has adopted this ordinance imposing new and
154 increased impact fees effective June 27, 2021.

 (c) On or before March 26, 2021, the Planning, Environmental, and
156 Development Services Department shall post notice in the Division of Building Safety, and in
the appropriate location on the County website, stating that the Board has adopted this Ordinance
158 imposing new and increased school impact fees effective June 27, 2021.

160 [Remainder of page intentionally left blank]

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ADOPTED THIS 23rd DAY OF MARCH, 2021.

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ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

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By: _____
Jerry L. Demings, County Mayor

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

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By: _____
Deputy Clerk

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