

ORDINANCE NO. 2018-__

**AN ORDINANCE AMENDING THE ORANGE COUNTY
LAW ENFORCEMENT IMPACT FEE ORDINANCE,
CODIFIED AT ARTICLE II, CHAPTER 23, OF THE
ORANGE COUNTY CODE; PROVIDING AN EFFECTIVE
DATE, AND DIRECTING THE CLERK OF THE BOARD
TO PUBLISH A TIMELY NOTICE STATING THAT THE
BOARD HAS ADOPTED THIS ORDINANCE IMPOSING
INCREASED IMPACT FEES, WITH ANNUAL INDEXING**

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
ORANGE COUNTY, FLORIDA:**

Section 1. Amendments to Article II, Chapter 23, Orange County Code. The
Orange County Law Enforcement Impact Fee Ordinance, codified at Article II, Chapter 23, of
the Orange County Code, is amended to read as follows, with additions being shown by
underlines and deletions being shown by strike-throughs:

ARTICLE II

LAW ENFORCEMENT IMPACT FEE

Sec. 23-26. Short title, authority and applicability.

(a) This article shall be known and may be cited as the
"Orange County Law Enforcement Impact Fee Ordinance."

(b) The board of county commissioners has authority to
adopt this article through general charter county home rule powers
pursuant to Fla. Const. art. VIII, § 1(g) and F.S. chs. 30, 125 and
163 and the county charter.

(c) Planning for additional capital facilities—and
~~equipment—improvements~~ needed to serve new growth and
development that generate additional demands on law enforcement
and the implementation of these needs is a responsibility of the
county under F.S. ch. 163, pt. II [F.S. 163.3161 et seq.], and is in
the best interest of the health, safety and welfare of the citizens of
the county.

Sec. 23-27. Definitions.

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:

Affordable shall mean as set forth in Orange County Administrative Regulation No. 4.08, as it may be amended or replaced from time to time.

Calls for service shall mean requests for law enforcement services which are logged by the sheriff's communication center.

Capital cost shall mean any expenditure which, under generally accepted accounting principles for local governments, would be considered a capital expense for a capital improvement.

Capital improvement shall mean, but is not limited to, site planning, land acquisition, site improvements, buildings, motor vehicles, personal equipment and communications facilities, but excludes maintenance and operations. Acquisition of a "capital improvement" means a purchase of a capital improvement that expands the capacity of the Orange County Sheriff's Office to provide law enforcement services made necessary by growth.

Certificate of occupancy shall mean a certificate issued by the county building department upon completion of a building erected in accordance with approved plans, and after final inspection of a building, stating, at a minimum, the nature of the occupancy permitted, the number of persons for each floor when limited by law, and the allowable load per square foot for each floor in accordance with the Standard Florida Building Code.

Commercial/retail shall include but not necessarily be limited to those land uses defined by Standard Industrial Classification codes 50-59, which include wholesale and retail trade, restaurants, service stations and the like.

Comprehensive plan shall mean the 2010-2030 Orange County Comprehensive Plan adopted by the board of county commissioners on May 19, 2009, in accordance with Florida Statutes, as amended from time to time.

County facilities constructed for nonproprietary governmental purposes shall mean facilities constructed by or for the county to be used for governmental purposes, but shall exclude Orange County Utilities Department and Orange County Convention Center Facilities.

76 *Development* shall mean any improvement which requires a
building permit.

78 *Dwelling unit* shall mean ~~any~~ of the following: single-family
and ~~or~~ multifamily residential units, attached and ~~or~~ detached
80 dwellings, houses of conventional construction, mobile homes,
manufactured housing home, and all ~~any~~ other structures used for
82 permanent residence or for dwelling purposes, regardless of
whether occupied by an owner or tenant. The term shall not
84 include a hotels, motels or tourist trailer camps.

Impact fee study shall mean the "Orange County Law
86 Enforcement Impact Fee Study," prepared by ~~TischlerBiseTindale~~
Oliver, dated ~~April 12, 2012~~ August 22, 2017.

88 *Low income* shall mean as set forth in Orange County
Administrative Regulation No. 4.08, as it may be amended or
90 replaced from time to time.

Mobile home shall mean a structure transportable in one (1) or
92 more sections, which structure is eight (8) body feet or more in
width and over thirty-five (35) feet in length, and which structure
94 is built on an integral chassis and designed to be used as a dwelling
when connected to the required utilities, and includes the
96 plumbing, heating, air conditioning and electrical systems
contained therein.

98 *Multifamily* shall mean two (2) or more attached dwelling
units. For the purposes of this ordinance, time-share development
100 shall be considered as multifamily.

Office/Institutional shall include but not necessarily be limited
102 to those land uses defined by Standard Industrial Classification
codes 40-49 and 60-99, which include transportation, utilities,
104 government, health care, banking, insurance, real estate, personal
and business services and the like.

106 *Residential development* shall mean any development
designed or intended to be used as a dwelling unit.

108 *Service standard index* shall mean a standard for measuring
the level of law enforcement services based on the number of calls
110 for service received by the Orange County Sheriff's Office per
sworn officer per year.

112 *Single-family detached* shall mean a single dwelling unit not
attached to any other dwelling unit.

114 *Very low income* shall mean as set forth in Orange County
116 Administrative Regulation No. 4.08, as it may be amended or
 replaced from time to time.

Sec. 23-27.5. Rules of construction.

118 For the purposes of administration and enforcement of this
120 article, unless otherwise stated in this article, the following rules of
 construction shall apply:

122 (a) In case of any difference of meaning or implication
 between the text of this subdivision and any caption, illustration,
 summary table or illustrative table, the text shall control.

124 (b) The word "shall" is always mandatory and not
 discretionary; the word "may" is permissive.

126 (c) Words used in the present tense shall include the
128 future and words used in the singular number shall include the
 plural and the plural the singular, unless the context clearly
 indicates the contrary.

130 (d) The word "person" includes an individual, a
132 corporation, a partnership, an incorporated association, or any
 other similar entity.

134 (e) Unless the context clearly indicates the contrary,
 where a regulation involves two (2) or more items, conditions,
136 provisions, or events connected by the conjunction "and," "or" or
 "either ... or" the conjunction shall be interpreted as follows:

138 (1) *And* indicates that all the connected terms,
 conditions, provisions or events shall apply.

140 (2) *Or* indicates that the connected items,
 conditions, provisions or events may apply singly or in any
 combination.

142 (3) *Either ... or* indicates that the connected
144 items, conditions, provisions or events shall apply singly but not in
 combination.

146 (f) 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 like kind or character.

148 **Sec. 23-28. Findings and declarations.**

150 (a) The board of county commissioners finds that new
 development in the unincorporated areas of the county requires
 additional governmental services and facilities, including

specifically law enforcement services provided by the county sheriff. It is the policy of the board, as set forth in the comprehensive plan, that new development should be permitted to occur only where an adequate level of governmental services and facilities, such as law enforcement, can be provided.

(b) It is the policy of the board of county commissioners that new development should pay a portion of the overall capital costs related to the additional governmental services and facilities to accommodate that new development.

(c) The purpose of this article is to ensure the provision of an adequate level of law enforcement services throughout the unincorporated area of the county so that new development in the unincorporated area may occur in a manner consistent with the comprehensive plan.

(d) It is the purpose of this article to require new development to bear a portion of the overall capital costs related to the additional law enforcement services made necessary by such new development and to avoid paying those costs from the county's general fund.

(e) The board of county commissioners hereby finds that impact fees provide a reasonable method of regulating new development in the county to ensure that such new development pays a portion of the capital costs of governmental services and facilities necessary to accommodate the new development.

(f) The county sheriff's office provides law enforcement on a countywide basis, as a countywide service, throughout the unincorporated area without regard to the location of or use of specific parcels of property. Because of this public policy the capital facilities and equipment improvements that are funded with impact fee revenue cannot be restricted to the zones or sectors which have been created by the sheriff for patrol purposes. The capital facilities improvements funded by impact fees shall provide law enforcement services to the new users within the unincorporated areas of the county.

(g) The provision of law enforcement services is hereby deemed to be a governmental service to be provided on a uniform countywide basis. All new development creates an impact upon the cost of providing law enforcement services. The cost of providing such services has been allocated according to the type of development which occurs based on the survey of prior calls for service.

194 (h) The additional impact imposed by new development
upon the capital costs of providing law enforcement services
occurs at the time that development of the property takes place.

196 (i) The provisions of this article relating to adequate
law enforcement services in the county, the additional law
198 enforcement services needed for new development in the county,
the capital costs relating to those additional law enforcement
200 services needed for new development in the county, and the impact
fee for those capital costs are based upon and supported by the
202 findings and recommendations contained within the impact fee
study. The board of county commissioners hereby finds that the
204 calculation of the impact fee in the impact fee study is based on the
most recent and localized data and approves and adopts these
206 portions of the impact fee study relating to the capital costs of law
enforcement services.

208 (j) The board of county commissioners hereby
acknowledges as the existing standard for law enforcement
210 services in the county a service standard index of ~~745.28~~ 282 calls
for service per sheriff's officer per year, as identified in the impact
212 fee study.

214 (k) Continuing to provide, at a minimum, the existing
level of law enforcement services within the county that is the
basis of calculated impact fees in the impact fee study and that is
216 also consistent with the acknowledged service standard index and
recommendations of the impact fee study is essential to and in the
218 best interests of the public health, safety, and general welfare of
the citizens of the county.

220 (l) The board of county commissioners hereby declares
that nothing in subsection (j) or subsection (k) shall be construed
222 or interpreted as meaning, intimating, inferring or implying that the
board does not retain the sole and absolute discretion to deliberate
224 upon and establish the Orange County Sheriff's Office annual
budget each fiscal year, or that its discretion to establish that
226 budget each fiscal year will be controlled, subject to, or otherwise
affected by the board's findings in subsections (j) and (k).

228 (m) It is the intent of the board of county commissioners
that the impact fees imposed pursuant to this article be used to pay
230 for those capital costs related to the additional law enforcement
services required for new development in the county.

232 (n) Based on the impact fee study, the board of county
commissioners hereby finds that there exists a reasonable
234 relationship, or rational nexus, between the capital costs of

236 providing law enforcement at the existing service standard index
referenced above and the impact fees imposed on new
development by this article.

238 (o) The board of county commissioners hereby finds
240 that there exists a reasonable relationship, or rational nexus,
between the impact fees to be collected pursuant to this article and
242 the expenditure of those funds on capital costs relating to law
enforcement services, as limited and restricted by this article.

Sec. 23-28.5. Law enforcement impact fee fund established.

244 (a) There is hereby established one law enforcement
impact fee fund, for the law enforcement impact fees collected
246 pursuant to this ordinance.

248 (b) Funds withdrawn from the fund established hereby
must be used in accordance with this ordinance.

Sec. 23-29. Imposition of Impact fees, with annual indexing;
250 **comparable uses; alternative impact fee**
calculation; periodic updates; time of payment.

252 (a) Impact Fees. The following impact fees, with
annual indexing at one point six percent (1.6%), are hereby
254 imposed upon all new development in the unincorporated areas of
the county:

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258 *[THE IMPACT FEE SCHEDULE IS SHOWN ON PAGE 8.]*
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Law Enforcement Impact Fee Schedule

Development Type Land Use	Impact Fee Per Development Unit				
	<u>Year 1:</u> <u>May 1, 2018</u> <u>April 30, 2019</u>	<u>Year 2:</u> <u>May 1, 2019</u> <u>April 30, 2020</u> <small>(2)</small>	<u>Year 3:</u> <u>May 1, 2020</u> <u>April 30, 2021</u> <small>(3)</small>	<u>Year 4:</u> <u>May 1, 2021</u> <u>April 30, 2022</u> <small>(4)</small>	<u>Year 5:</u> <u>May 1, 2022</u> <u>April 30, 2023+</u> <small>(5)</small>
Single-family detached (per dwelling unit)	\$478 \$271.00	\$486	\$494	\$502	\$510
Multifamily (per dwelling unit)	\$185 \$319.00	\$188	\$191	\$194	\$197
Mobile home (per dwelling unit)	\$334 \$263.00	\$339	\$344	\$350	\$356
Hotel/motel (per dwelling unit/room)	\$378 \$135.00	\$384	\$390	\$396	\$402
Manufacturing (per 1,000 gross sq. ft.)	\$140 \$118.00	\$142	\$144	\$146	\$148
Warehousing (per 1,000 gross sq. ft.)	\$78 \$57.00	\$79	\$80	\$81	\$82
Commercial/retail (per 1,000 gross sq. ft.)	\$750 \$494.00	\$762	\$774	\$786	\$799
Office/institutional (per 1,000 gross sq. ft.)	\$253 \$109.00	\$257	\$261	\$265	\$269
Private school (per 1,000 gross sq. ft.)	\$88 \$32.00	\$89	\$90	\$91	\$92
Public school	Exempt under state law				
Annual Index ⁽⁶⁾	1.6%	1.6%	1.6%	1.6%	

(1) Source: Table 8 of impact fee study.

(2) Year 1 figures multiplied by (1+0.016), annual index.

(3) Year 2 figures multiplied by (1+0.016), annual index.

(4) Year 3 figures multiplied by (1+0.016), annual index.

(5) Year 4 figures multiplied by (1+0.016), annual index. In the event the impact fee schedule is not updated by April 30, 2023, the impact fees shall continue at the Year 5 rates until the impact fee schedule is updated.

(6) Source: Table 14 of impact fee study.

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(b) Comparable uses.

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In the event the land use for which the building permit is sought is not specified in the impact fee schedule, the impact fee assessed shall be the fee applicable to the most nearly comparable

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278 type of land use on the fee schedule. The impact fee applicable for
280 the most nearly comparable type of land use may be adjusted to a
fee that accurately reflects the impacts of such development on the
282 Orange County Sheriff's Office. The Director of the Community,
Environmental and Development Services Department shall make
the determination of the comparable land use and any appropriate
adjustment.

284 (c) *Alternative impact fee calculation.*

286 (1) In the event an applicant believes that the
cost of law enforcement facilities to serve its proposed
288 development is less than the fee established in subsection (a), the
applicant may, at its sole expense, submit an alternative fee
290 calculation to the county pursuant to the provisions of this
subsection. Such an alternative fee calculation shall be submitted
292 prior to issuance of any building permit and must be approved by
the board of county commissioners prior to issuance of any
certificate of occupancy, temporary or permanent.

294 If the data, information, and assumptions used by
the applicant to calculate the alternative impact fee satisfy the
296 requirements of this subsection, the alternative impact fee shall be
deemed the impact fee due and owing for the proposed
298 development. The proposed development shall be presumed to
generate the most intensive use permitted under the applicable land
300 development regulations such as the comprehensive plan or zoning
regulations or under applicable deed or plat restrictions.

302 (2) The alternative impact fee calculations shall be
limited to the demand component of the impact fee equation and
304 shall be based on data, information, or assumptions contained in
this article or independent sources, provided that the independent
306 source is a county-accepted source and the independent source is a
local study carried out pursuant to an accepted methodology.

308 (3) If a previous project has submitted a local study
consistent with the criteria required herein, and if such study is
310 determined by the county to be current, the impact upon the law
enforcement facilities as described in such prior local study shall
312 be presumed to exist for other similar projects. In such
circumstances, the alternative impact fee shall be established to
314 reflect the impact upon the law enforcement facilities as described
in the prior local study. There shall be a rebuttable presumption
316 that an alternative impact fee study conducted more than three (3)
years earlier is invalid.

318 (4) The provisions of this subsection shall be
320 implemented and administered in accordance with the procedures
 set forth in Orange County Administrative Regulations Nos. 4.01
 and 4.02, as may be amended from time to time.

322 (5) Any agreement proposed by an applicant
324 pursuant to this subsection must be presented to and approved by
 the board of county commissioners prior to the issuance of any
326 certificate of occupancy, temporary or permanent. Any such
 agreement may provide for execution by mortgagees, lien holders,
328 or contract purchasers, in addition to the landowner, and may
 permit any party to record such agreement in the official records of
330 the county. The board of county commissioners shall approve such
 an agreement only if it finds that the agreement will apportion the
332 burden of expenditure for new facilities in a just and equitable
 manner, consistent with the principles set forth in *Contractors &*
334 *Builders Association v. City of Dunedin*, 329 So. 2d 314 (Fla.
 1976), *Hollywood Inc. v. Broward County*, 432 So. 2d 606 (Fla.
336 4th DCA 1983, *cert. denied*, 440 So. 2d 352 (Fla. 1983); and *Home*
 Builders and Contractors Association of Palm Beach County, Inc.
338 *v. Board of County Commissioners of Palm Beach County*, 446 So.
 2d 140 (Fla. 4th DCA 1984), *cert. denied*, 451 So. 2d 848 (Fla.
 1984).

340 (6) Any applicant or owner who submits a
342 proposed alternative impact fee pursuant to this subsection and
 desires the immediate issuance of a building permit shall pay, prior
344 to the issuance of the building permit, the applicable impact fee
 pursuant to subsection (a). Such payment shall be paid to the
346 county and shall be noted in writing as "paid under protest" and
 shall not be construed as a waiver of any review rights. Any
348 difference between the amount paid and the amount due, as
 determined by the county, shall be refunded to the applicant or
350 owner. The county shall not pay interest on the funds paid under
 protest and subsequently refunded unless interest has been earned
 on such funds.

352 (bd) Periodic updates. This article shall be reviewed by
354 the board of county commissioners at least every five (5) years.
356 The review shall consider changes in all of the inputs to the
 methodology used in the impact fee study to calculate the fees, as
358 well as potential improvements to the methodology itself. The
 purpose of this review is to ensure the fee charged new
360 development will not exceed its pro rata share for the reasonably
 anticipated expansion costs of capital facilities and equipment for
 law enforcement services necessitated solely by its presence.

(ee) *Time of payment.*

(1) Except as ~~otherwise~~ permitted by subsection (ee)(2) or mandated by state law, law enforcement impact fees imposed on all new development shall be paid as a condition to the issuance of a building permit. ~~or for~~ In the case of a single family homes or duplexes, the applicant may elect to pay the applicable impact fee no later than immediately prior to the issuance of the certificate of occupancy. In the case of a mobile home, the fee shall be paid at the issuance of a tie-down permit or at the election of the applicant no later than immediately prior to the issuance of the certificate of occupancy.

(2) For the following types of projects, the law enforcement impact fee may be paid prior to the authorization of pre-power or issuance of a certificate of occupancy (temporary or otherwise), but no pre-power or certificate of occupancy shall be authorized or issued until the impact fee has been paid as provided by subsection (ee)(3):

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

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

(3) For any such eligible commercial project ~~where payment of the applicable impact fee is deferred, or eligible certified multifamily affordable housing project;~~ the impact fee for the entire project shall be 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.

(4) a. If the law enforcement impact fee is deferred at the time of issuance of the building permit as authorized by subsection (ee)(2) for an eligible commercial project, a service charge shall 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. The county shall serve this notice upon the owner by certified mail and record it in the official records of the county. ~~This notice shall thereupon operate as place a lien against such 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.

b. Upon payment of the impact fee and
any associated costs and fees, the county shall promptly serve a
notice of payment upon the owner by certified mail and record the
notice of payment in the official records of the county, thereby
releasing the lien.

(5) In the event the law enforcement impact fee
is not paid prior to the authorization of pre-power or issuance of
the first certificate of occupancy (temporary or otherwise
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:

a. The county may collect the law
enforcement impact fee, interest from the date payment was due at
the rate fixed by state statute for judgments, a penalty of five (5)
percent per month or any portion of a month (not to exceed
twenty-five (25) percent), the costs of such collection, and a
reasonable attorney's fees; and

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

**Sec. 23-30. Presumptions; limitations; agreements and
security for review requirements; date of impact;
appeal process; refunds.**

(a) *Development presumed to have maximum impact
permitted.* The proposed development shall be presumed to have
maximum impact on the necessary law enforcement capital
facilities and equipment as permitted under the most restrictive of
the applicable land development regulations such as zoning
regulations, the county land use plan, county facility master plan,
applicable deed or plat restrictions or the building permit
application.

(b) *Limitations on expenditure of funds collected.* The
impact fees collected by the county pursuant to this article shall be
kept as a separate fund from other revenue of the county. The use
of such funds will be restricted to the acquisition, expansion, and
development of capital facilities and equipment to benefit new

development within unincorporated Orange County. Any funds on deposit not immediately necessary for expenditure shall be invested in interest-bearing accounts. All interest income derived from monies collected to date and in the future shall be deposited in the applicable trust account. In recognition of the centralized location of some law enforcement functions, the inherent roving nature of law enforcement patrol activities and the periodic need to reassign personnel and equipment between patrol sectors, the funds shall not be geographically segregated nor restricted for expenditure in any subarea of the county. The impact fee funds shall be collected and expended in a manner consistent with the principles set forth in *Contractors and Builders Association v. City of Dunedin*, 329 So. 2d 314 (Fla. 1976) and *Hollywood Inc. v. Broward County*, 431 So. 2d 606 (Fla. 4th DCA 1983), *cert. denied*, 440 So. 2d 352 (Fla. 1983) and otherwise consistent with all requirements of the Constitution of the United States, the Constitution of the State of Florida and all applicable laws.

(1) No law enforcement fees shall be expended on capital equipment for the sheriff pursuant to this article unless or until the board of county commissioners approves such expenditures by motion at a regularly scheduled meeting. Such review shall occur only after the comptroller for the sheriff has submitted a request for purchase identifying the capital equipment to be purchased. Such request shall be submitted to the county office of management and budget which shall review the request and confirm that it complies with the restrictions of this article.

~~(c) — Impact agreement. In lieu of the payment of fees as calculated in section 23-29, or if compliance with one (1) or more sections of this article can be insured only if the nature and scope of the proposed development is identified by means other than that provided in subsection (a) above, any applicant for building permit may propose to enter into an impact agreement with the county designed to establish just and equitable fees or their equivalent and standards for service needs appropriate to the circumstances of the specific development proposed. Such an agreement may include, but shall not be limited to provisions which:~~

~~(1) — Modify the presumption of impact set forth in subsection (a) above by specifying the nature of the proposed development for purposes of computing service needs generated; provided that the agreement shall establish enforceable means for ensuring that the nature of the development will be substantially as agreed.~~

(2) ~~Provide an impact fee which may differ from that set forth in this article; provided that such estimate shall be based on sufficient economic and planning data, in a form acceptable to the county, to demonstrate that a different fee is appropriate.~~

(3) ~~Provide a schedule and method for payment of the fees in a manner appropriate to the particular circumstances of the proposed development in lieu of the requirements for payment of the fees as set forth in section 23-29; provided that the county receive, in a form acceptable to the board of county commissioners, security ensuring payment of the fees within ninety (90) days subsequent to the issuance of a building permit, which security may be in the form of a cash bond, surety bond, an irrevocable letter of credit, negotiable certificate of deposit or escrow account, or a lien or mortgage on lands to be covered by the building permit.~~

~~Any agreement proposed by a developer pursuant to this article shall be presented to the board of county commissioners prior to the issuance of a building permit. Any such agreement may provide for execution by mortgagees, lienholders or contract purchasers in addition to the landowner, and may permit any party to record such agreement in the official records of the county. The board of county commissioners shall approve such an agreement only if it finds that the agreement will apportion the burden of expenditure for new facilities in a just and equitable manner, consistent with the principles set forth in *Contractors & Builders Association v. City of Dunedin*, 329 So. 2d 314 (Fla. 1976), and *Hollywood Inc. v. Broward County*, 431 So. 2d 606 (Fla. 4th DCA 1983).~~

(d) ~~Applicability.~~ The right to use any of the options described in subsection (c) [relating to an impact agreement] shall be exercised prior to the issuance of the first building permit for the proposed development.

(ed) *Development impact calculated at time of issuance of building permit.* The impact from the proposed development shall be calculated at the time of issuance of the building permit. If the applicant for a single family or duplex home elects to pay the applicable impact fee after the issuance of the building permit, but no later than prior to the issuance of the initial certificate of occupancy, temporary or permanent, the impact fee due shall be calculated to be the fee due on the day of issuance of the building permit.

(e) Appeal process.

530 (1) If an applicant disagrees with the
532 determination rendered by county staff, the applicant may appeal
534 the determination to the county's Impact Fee Committee, pursuant
536 to Administrative Regulations 4.01 and 4.02, as may be amended,
538 upon payment of a nonrefundable processing fee. If the applicant
540 decides to appeal the determination, the applicant shall file a
542 written notice of appeal with the Impact Fee Committee
 coordinator not later than fifteen (15) days after the date that the
 staff written determination was rendered. If the notice of appeal is
 not filed within the fifteen-day period, the applicant waives the
 right to appeal the determination. Within fifteen (15) days after
 receipt of the written notice of appeal, a hearing date and time shall
 be assigned and notice given to the applicant.

544 (2) In the event the applicant disagrees with the
546 decision of the Impact Fee Committee, the applicant may appeal
548 the decision to the Development Review Committee by filing a
 written notice of appeal with the Chairperson of the Development
 Review Committee and payment of a nonrefundable processing
 fee, within fifteen (15) days after the decision.

550 (3) In the event the applicant disagrees with the
552 decision of the Development Review Committee, the applicant
554 may appeal the decision to the board of county commissioners by
 filing a written notice of appeal with the Chairperson of the
 Development Review Committee and payment of a nonrefundable
 processing fee, within fifteen (15) days after the decision.

556 (4) In the event an applicant disagrees with the
558 decision of the board of county commissioners, the applicant may
 challenge such decision in the circuit court by filing a petition for
 writ of certiorari no later than thirty (30) days from the date the
 board of county commissioners' decision is rendered.

560 (5) The county shall not pay interest on any funds
562 paid under protest and subsequently refunded, unless the county
 has earned interest on such funds.

564 (f) Refunds. Any impact fee refund must comply with the
566 provisions of Orange County Administrative Regulation No.
 4.04.01, as may be amended.

Sec. 23-31. Credits.

568 (a) The board of county commissioners shall grant a
 credit against impact fees imposed by this article for any

expenditure required to be made pursuant to any development order issued by the board of county commissioners.

(b) Credits shall be subject to the following limitations:

(1) Credit shall be granted only for expenditures on items shown as capital facilities or equipment in calculating the fee in the impact fee study.

(2) No credit shall exceed the fees imposed by this article unless approved by the board of county commissioners.

Sec. 23-32. Exemptions and discounts.

(a) The following types of development are exempt from the payment of the impact fees imposed pursuant to this article:

(1a) Any addition or expansion to a residential building which does not increase the number of dwelling units in the building.

(2b) Any accessory building for a subordinate or incidental use to a dwelling unit on residential property, which building does not constitute a dwelling unit.

(3c) The replacement of a building or structure with a new building or structure, provided the original building or structure was located on the site in 1983 or thereafter. If the land use of the replacement building or structure is different from the original structure, the exemption shall be limited to the equivalent fee for the original structure. Documentation of the existence of the building or structure shall be submitted to the Community, Environmental, and Development Services Department, Division of Fiscal and Operational Support. When determining the amount of an exemption, the highest and best use that was previously assessed and paid shall be applied, whenever available. This section is not intended to preclude architectural enhancements or facade improvements to an existing structure as long as no additional net usable square footage is added.

~~a. The foregoing notwithstanding, for the period from November 13, 2009 through March 31, 2013, the change in use of an existing nonresidential building or structure which was located on the site in 1983 or thereafter, with a new use, regardless of the original use, shall be exempt from the payment of the impact fee imposed pursuant to this article; provided, however, that such site must be located within the urban service area boundary, such new use must be consistent with the existing~~

zoning of such site and consistent with the county's current comprehensive plan, and provided further that such new use must not have more net usable square footage than the original structure.

(4d) Expansions of or additions to existing structures, provided that such expansion or addition does not require the issuance of a certificate of occupancy.

(5e) Structures owned by federal or state agencies and used for governmental purposes.

(6f) County facilities constructed for nonproprietary governmental purposes.

~~(b) (1) Notwithstanding that it may have an impact on law enforcement services provided by the county sheriff, any affordable single-family residential unit, affordable multifamily unit, or affordable mobile home unit within a project which has received a certificate of affordability from the county's housing and community development division shall be eligible for a discount on the applicable law enforcement impact fee according to the procedures set forth in Orange County Administrative Regulations No. 4.08, as it may be amended or replaced from time to time.~~

~~(2) The county shall not increase the amount of the law enforcement impact fee payable under section 23-29 to replace any revenue lost on account of the discounts granted under this subsection.~~

~~(3) The board of county commissioners may adopt administrative regulations and guidelines to implement subsection 23-32(b) and to ensure that a housing unit which is granted a discount remains affordable.~~

Sec. 23-33. Return of funds.

The fees collected pursuant to this article shall be returned to the then-present owner of the development if the fees have not been encumbered or spent by the end of the calendar quarter immediately following six (6) years from the date the fees were received, or if the development for which the fees were paid was never begun, in accordance with Orange County Administrative Regulation No. 4.04.01 and the following procedure:

(a) The then-present owner must petition the board of county commissioners for the refund within one (1) year following the end of the calendar quarter immediately following ~~five (5) six (6)~~ years from the date on which the fee was received.

648 (b) The petition must be submitted to the county
administrator and must contain:

650 (1) A notarized sworn statement that the
petitioner is the current owner of the property;

652 (2) A copy of the dated receipt issued for
payment of the fee;

654 (3) A certified copy of the latest recorded deed;
and

656 (4) A copy of the most recent ad valorem tax
bill.

658 (c) Within sixty (60) days from the date of receipt of
petition for refund, the county administrator or his designee shall
660 advise the petitioner and the board of county commissioners of the
status of the fee requested for refund. For the purposes of
662 determining whether fees have been spent or encumbered, the first
money placed in a trust fund account shall be deemed to be the
664 first money taken out of that account when withdrawals have been
made in accordance with section 23-30 above.

666 (d) When the money requested is still in the trust fund
account and has not been spent or encumbered by the end of the
668 calendar quarter immediately following five ~~(5)~~ six (6) years from
the date of the fees were paid, the money shall be returned with
670 interest at the rate earned by the county.

Sec. 23-34. Municipal opt-in procedures.

672 Any incorporated municipality within the county may enter
into an intergovernmental agreement with the county to participate
674 in the law enforcement impact fee program as established by this
article, subject to the provisions of this article and the terms of the
676 intergovernmental agreement.

Sec. 23-35. Economic impact determination.

678 The board of county commissioners does hereby determine
and find, pursuant to subsection 30-21(b)(2), that sufficient
680 information has been provided for the board of county
commissioners to assess the economic impact of this article,
682 including as amended, on the development of real property in the
county. The board of county commissioners therefore does hereby
684 determine and find that no further economic impact statement or
economic impact information is required in this matter. If the
686 ongoing planning studies and periodic review reveal a detrimental

economic impact, this article shall be reviewed and revised accordingly.

Sec. 23-36. Penalty.

Violations of this article may be punished as provided in section 1-9. Additionally, the county may obtain an injunction or other legal or equitable relief in the circuit court against any person violating this article.

Secs. 23-37 – 23-55. Reserved.

Section 2. Effective date; publishing of notice of increase in impact fees.

(a) This ordinance shall become effective on May 1, 2018.

(b) Pursuant to Section 163.31801(3)(d), Florida Statutes, on or before January 30, 2018, the Clerk of the Board of County Commissioners shall publish a legal notice in *The Orlando Sentinel* stating that the Board has adopted this ordinance effective May 1, 2018, imposing increased law enforcement impact fees, with annual indexing thereafter of one point six percent (1.6%).

ADOPTED THIS 9th DAY OF JANUARY, 2018.

ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

By: _____
Teresa Jacobs, County Mayor

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

By: _____
Deputy Clerk

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Orange County Law Enforcement Impact Fee Update Study

FINAL REPORT

August 22, 2017



Prepared for:

Orange County

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Orange County
Law Enforcement Impact Fee Update Study
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APPENDIX A: Building and Land Value Analysis - Supplemental Information

Introduction

Law enforcement impact fees are used to fund capital expansion projects for law enforcement service related buildings, land, vehicles and capital equipment required to support the additional demand created by new growth. Orange County's law enforcement impact fees were last updated in 2012. It is the policy of the County to update the impact fee technical study frequently to ensure the fees are based on the most current and localized data. As such, the Orange County retained Tindale Oliver to prepare an updated study to reflect changes to the cost, credit, and demand components since the last update study. It should be noted that figures calculated in this report represent the technically defensible level of impact fees that the County could charge; however, the Board of County Commission (BCC) may choose to discount the fees as a policy decision.

Methodology

The methodology used to update the law enforcement impact fee is a consumption-based impact fee methodology, which has also been used to calculate the current adopted law enforcement impact fee for the County as well as several law enforcement impact fees throughout Florida, including, but not limited to, fees in Collier, Charlotte, Palm Beach, and Indian River Counties. A consumption-based impact fee is intended to charge new growth the proportionate share of cost associated with providing law enforcement facilities available for use by new growth.

Legal Standard Overview

In Florida, legal requirements related to impact fees have primarily been established through case law since the 1980's. Generally speaking, impact fees must comply with the "dual rational nexus" test, which requires that they:

- Be supported by a study demonstrating that the fees are proportionate in amount to the need created by new development paying the fee; and
- Be spent in a manner that directs a proportionate benefit to new development, typically accomplished through establishment of benefit districts (if needed) and a list

of capacity-adding projects included in the County's Capital Improvement Plan, Capital Improvement Element, or another planning document/Master Plan.

In 2006, the Florida legislature passed the "Florida Impact Fee Act," which recognized impact fees as "an outgrowth of home rule power of a local government to provide certain services within its jurisdiction." § 163.31801(2), Fla. Stat. The statute – concerned with mostly procedural and methodological limitations – did not expressly allow or disallow any particular public facility type from being funded with impact fees. The Act did specify procedural and methodological prerequisites, such as the requirement of the fee being based on most recent and localized data, a 90-day requirement for fee changes, and other similar requirements, most of which were common to the practice already.

More recent legislation further affected the impact fee framework in Florida, including the following:

- **HB 227 in 2009:** The Florida legislation statutorily clarified that in any action challenging an impact fee, the government has the burden of proving by a preponderance of the evidence that the imposition or amount of the fee meets the requirements of state legal precedent or the Impact Fee Act and that the court may not use a deferential standard.
- **SB 360 in 2009:** Allowed fees to be decreased without the 90-day notice period required to increase the fees and purported to change the standard of legal review associated with impact fees. SB 360 also required the Florida Department of Community Affairs (now the Department of Economic Opportunity) and Florida Department of Transportation (FDOT) to conduct studies on "mobility fees," which were completed in 2010.

The following paragraphs provide further detail on the generally applicable legal standards applicable here.

Impact Fee Definition

- An impact fee is a one-time capital charge levied against new development.
- An impact fee is designed to cover the portion of the capital costs of infrastructure capacity consumed by new development.
- The principle purpose of an impact fee is to assist in funding the implementation of projects identified in the Capital Improvements Element (CIE) and other capital improvement programs for the respective facility/service categories.

Impact Fee vs. Tax

- An impact fee is generally regarded as a regulatory function established as a condition for improving property and is not established for the primary purpose of generating revenue, as are taxes.
- Impact fee expenditures must convey a proportional benefit to the fee payer. This is accomplished through the establishment of benefit districts, where fees collected in a benefit district are spent in the same benefit district.
- An impact fee must be tied to a proportional need for new infrastructure capacity created by new development.

This technical report has been prepared to support legal compliance with existing case law and statutory requirements. The technical report also documents the methodology components for the law enforcement impact fee, including an evaluation of the inventory, service area, cost, credit, and demand components. Information supporting this analysis was obtained from the Orange County Sheriff's Office (OCSO) and other sources, as indicated. The study's methodology is documented in the following sections of this technical report:

- Facility Inventory
- Service Area
- Cost Component
- Credit Component
- Net Impact Cost
- Demand Component
- Calculated Law Enforcement Impact Fee Schedule
- Impact Fee Schedule Comparison
- Indexing

These various elements are summarized in the remainder of this report, with the result being the calculated law enforcement impact fee schedule.

Facility Inventory

According to the information provided by the Orange County Sheriff's Office (OCSO), Orange County has approximately 373,000 square feet of building space, including 331,000 square feet of primary buildings and 42,000 square feet of support buildings. Additionally, OCSO current inventory includes 143.5 acres of land that is associated with the primary and support buildings. **Table 1** presents this information.

The building value estimates are based on recent construction cost, insurance values of the existing buildings, information from other Florida jurisdictions, and discussions with OCSO staff. This analysis resulted in an estimated cost of \$225 per square foot for primary buildings and \$175 per square foot for support buildings. It is also important to note that, in addition to the buildings shown in Table 1, OCSO leases several facilities that are also utilized in providing law enforcement services. For the purposes of this impact fee study, the inventory includes only the space owned by the County.

In terms of estimating current land values, a review of the value of land where existing law enforcement facilities are located was completed. In addition, land use characteristics of the areas where existing facilities are located were evaluated. Both vacant land sales and the current value of vacant parcels as reported by the Orange County Property Appraiser were evaluated to determine the differentiation in land values for different land uses. This analysis resulted in an average value of \$230,000 per acre for parcels with 15 acres or less. As shown in Table 1, two of the law enforcement facilities are located on large, agriculturally zoned parcels. These two parcels are valued at \$25,000 per acre, based on the value of agricultural land. Additional detail is included in Appendix A.

Table 1
Land and Building Inventory

Facility ⁽¹⁾	Address ⁽¹⁾	Law Enforcement Building Square Footage ⁽¹⁾	Total Building Square Footage ⁽²⁾	Total Acres ⁽²⁾	Allocated Law Enforcement Acres ⁽³⁾	Building Value ⁽⁴⁾	Land Value ⁽⁵⁾	Total Building and Land Value ⁽⁶⁾
Primary Buildings:								
Central Operations	2500 W. Colonial Drive	216,818	216,818	14.29	14.29	\$48,784,050	\$3,286,700	\$52,070,750
Fleet Maintenance	2200 W. Colonial Drive	15,186	15,186	2.80	2.80	\$3,416,850	\$644,000	\$4,060,850
Sector 1 (Apopka Service Center)	1111 N. Rock Springs Road	5,857	29,259	9.33	1.87	\$1,317,825	\$430,100	\$1,747,925
Sector 2	11000 Lake Underhill Road	23,068	23,068	3.30	3.30	\$5,190,300	\$759,000	\$5,949,300
Sector 3 (Ocoee Service Center)	475 W. Story Road	6,460	29,410	7.64	1.68	\$1,453,500	\$386,400	\$1,839,900
Sector 4 and BRC	2400 W. 33rd Street	28,002	1,170,067	64.10	1.53	\$6,300,450	\$351,900	\$6,652,350
Main Courthouse	425 N. Orange Avenue	20,986	905,728	7.51	0.17	\$4,721,850	\$39,100	\$4,760,950
Juvenile Justice Center	2000 E. Michigan	2,093	251,438	54.11	0.45	\$470,925	\$103,500	\$574,425
Communications	6590 Amory Court	12,700	58,928	6.52	1.41	\$2,857,500	\$324,300	\$3,181,800
Support Buildings:								
Evidence	4536 S.W. 35th Street	24,300	24,300	1.44	1.44	\$4,252,500	\$331,200	\$4,583,700
LEVO	6350 Wadsworth Road	4,680	4,680	82.96	82.96	\$819,000	\$2,074,000	\$2,893,000
Range	14500 Wewahootee Road	13,400	13,400	31.58	31.58	\$2,345,000	\$789,500	\$3,134,500
Total		373,550	2,742,282	285.58	143.48	\$81,929,750	\$9,519,700	\$91,449,450
Weighted Average Building Value per Square Foot⁽⁷⁾						\$219		
Weighted Average Land Value per Acre⁽⁸⁾							\$66,349	

1) Source: Orange County Sheriff's Office

2) Source: Orange County Sheriff's Office and the Orange County Property Appraiser. Acreage excludes wasteland or submerged land.

3) Ratio of the law enforcement building square footage to the total building square footage multiplied by the total number of acres on the parcel

4) Law enforcement square footage multiplied by the estimated building value per square foot, \$225 for primary buildings and \$175 for support buildings. Appendix A provides further detail on the cost per square foot estimates.

5) Allocated law enforcement acres (Item 3) multiplied by estimated land value per acre, \$230,000 for primary buildings and the Evidence Building and \$25,000 per acre for the remaining support buildings. Appendix A provides further detail on the cost per acre estimates.

6) Sum of building value (Item 4) and land value (Item 5)

7) Total building value (Item 4) divided by the total law enforcement building square footage

8) Total land value (Item 5) divided by the total law enforcement allocated acreage (Item 3)

In addition to the land and buildings inventory, the OCSO also has the necessary equipment and vehicles to perform its law enforcement duties. **Table 2** summarizes the total equipment and vehicle inventory value. As shown, the total value associated with vehicles and equipment amounts to \$126 million. To determine the total value, the average cost to outfit an officer (approximately \$54,000) was multiplied by the total number of sworn officers (1,464) and added to the total vehicle and equipment value of items not included in the cost to outfit an officer.

Table 2
Vehicle and Equipment Value

Item	Count ⁽¹⁾	Value per Officer ⁽²⁾	Total Value ⁽³⁾
Number of Sworn Officers (2016)	1,464		
Average Cost of Field Personnel			
Total Vehicle Cost per Officer		\$42,302	\$61,930,128
Total Uniform/Equipment Cost per Officer		\$11,337	\$16,597,368
Total Cost to Outfit an Officer		\$53,639	\$78,527,496
Additional Vehicle and Equipment Value⁽⁴⁾			
Vehicle Value			\$8,331,893
Equipment Value			\$38,872,323
Total Vehicle and Equipment Value⁽⁵⁾			\$125,731,712

1) Source: Orange County Sheriff's Office

2) Source: Orange County Sheriff's Office

3) Count of sworn officers (Item 1) multiplied by the value per officer (Item 2)

4) Source: Orange County Sheriff's Office. Figures shown represent the total value of equipment and vehicles that are not included in the cost to outfit an officer.

5) Sum of the total cost to outfit an officer and the additional vehicle and equipment value (Item 4)

Service Area

OCSO provides law enforcement services in the unincorporated county and the Cities of Bay Lake and Lake Buena Vista. Therefore, the proper benefit district for the provision of law enforcement services is the unincorporated county and the Cities of Bay Lake and Lake Buena Vista.

Cost Component

The cost component of the study evaluates the cost of all capital items, including buildings, land, vehicles, and equipment. **Table 3** provides a summary of all capital costs, which amounts to \$217.2 million.

Also presented within Table 3 is the total impact cost per call. To calculate the total impact cost per call, the total asset value of \$217.2 million is divided by the average annual number of law enforcement related calls over the past six years. The resulting total impact cost per call amounts to \$534.

Table 3
Total Impact Cost

Component	Cost	Percent of Total Value ⁽⁶⁾
Building Value ⁽¹⁾	\$81,929,750	37.7%
Land Value ⁽¹⁾	\$9,519,700	4.4%
Vehicle and Equipment Value ⁽²⁾	\$125,731,712	57.9%
Total Asset Value⁽³⁾	\$217,181,162	100.0%
Average Annual Number of Calls (2011-16) ⁽⁴⁾	406,919	
Total Impact Cost per Call⁽⁵⁾	\$533.72	

1) Source: Table 1

2) Source: Table 2

3) Sum of building, land, and vehicle and equipment value (Items 1 and 2)

4) Source: Orange County Sheriff's Office

5) Total asset value (Item 3) divided by the average annual number of calls (Item 4)

6) Distribution of building, land, and vehicle and equipment values

Credit Component

To avoid overcharging new development for the law enforcement impact fee, a review of the capital financing program for law enforcement facilities and capital assets was completed. The purpose of this review was to determine any non-impact fee revenue generated by new development that is being used for capital facility (buildings, land, vehicles and equipment) expansion of the law enforcement program. Revenue credits would then apply against the cost per call so that new development is not overcharged for capital expansion projects. Based upon a review of capacity addition expenditures over the past six years and projected over the next four years, it has been determined that OCSO has used revenue from the Federal Forfeiture and Capital Fund to fund the capital expansion of law enforcement facilities. Additionally, because the OCSO has outstanding payments for a capital lease used to purchase a helicopter, a credit for the remaining payments is also recognized.

Capital Expansion Expenditures Credit

To calculate the capital expansion expenditure per call, the historical and planned capital expansion projects are reviewed. During the time period between 2011 and 2020, the County appropriated an average annual non-impact fee funding of \$1.7 million towards expansion of law enforcement facilities. The average annual expenditure was then divided by the average annual number of calls over the past six years. As shown in **Table 4**, the result is an average annual capital expansion expenditure of \$0.42 per call.

Table 4
Capital Expansion Credit

Building/Equipment⁽¹⁾	Funding Source⁽¹⁾	Total (FY 2011-2020)⁽¹⁾
Lenco BearCat G3	Federal Forfeiture Fund	\$303,540
K-9 Admin/Training Facility	Capital Funds	\$1,388,000
Total Capital Expansion Expenditure		\$1,691,540
Average Annual Capital Expansion Expenditure ⁽²⁾		\$169,154
Average Annual Number of Calls (2011-16) ⁽³⁾		406,919
Annual Capital Expansion Expenditure per Call ⁽⁴⁾		\$0.42

1) Source: Orange County Sheriff's Office

2) Average capital expansion expenditures over the 10-year period

3) Source: Table 3

4) Average annual expenditure (Item 2) divided by the average annual number of calls (Item 3)

Capital Lease Credit

Table 5 reflects the outstanding payments related to the purchase of the OCSO's Bell helicopter. The current lease obligation is being repaid with revenue from the General Fund. To calculate the credit of the outstanding loan, the present value of the total remaining payments is divided by the average annual number of calls over the past six years. As shown, the resulting credit is \$9.16 per call.

Because the capital lease is being partially funded with ad valorem revenues out of the General Fund, an adjustment was made to account for the fact that new homes tend to pay higher taxes per dwelling unit. This adjustment factor was estimated based on a comparison of the average taxable value of new homes to that of all homes. As presented in Table 5, the adjusted capital expansion credit amounts to \$12.42 per call in the case of residential land uses.

**Table 5
Capital Lease Credit**

Issue⁽¹⁾	Funding Source⁽¹⁾	Present Value of Remaining Payments⁽¹⁾	Average Annual Number of Calls (2011-16)⁽²⁾	Credit per Call⁽³⁾
Bell 206 L4 Helicopter	General Fund	\$3,727,359	406,919	\$9.16
Portion Funded with Ad Valorem Tax Revenues ⁽⁴⁾				\$8.15
Adjustment Factor for Residential Land Uses ⁽⁵⁾				1.40
Adjusted Credit for Residential Land Uses ⁽⁶⁾				\$11.41
Portion Funded with Other Sources ⁽⁷⁾				\$1.01
Total Credit for Residential Land Uses ⁽⁸⁾				\$12.42

1) Source: Orange County Sheriff's Office

2) Source: Table 3

3) Present value of payments remaining (Item 1) divided by the average annual number of calls (Item 2)

4) Portion of the total debt service funded with ad valorem tax revenues, which represents approximately 89% of General Fund revenues.

5) Adjustment factor to reflect higher ad valorem taxes paid by new homes

6) Portion funded with ad valorem tax revenues (Item 4) multiplied by the credit adjustment factor (Item 5)

7) Total capital lease credit less the portion funded with ad valorem tax revenues (Item 4)

8) Sum of the adjusted debt service credit for residential land uses and the portion funded with other sources (Items 6 and 7)

Net Impact Cost

Table 6 summarizes the calculation of the net law enforcement impact cost per call, which is the difference between the total impact cost and the total revenue credit. The resulting net impact cost per call is \$514 for residential land uses and \$517 for non-residential land uses.

Table 6
Net Impact Cost

Impact Cost/ Credit Element	Per Call
Impact Cost	
Total Impact Cost ⁽¹⁾	\$533.72
Revenue Credit	
Capital Improvement Credit ⁽²⁾	\$0.42
Capitalization Rate	3%
Capitalization Period (in years)	25
Total Capital Improvement Credit ⁽³⁾	\$7.31
Capital Lease Credit ⁽⁴⁾	
- Residential Land Uses	\$12.42
- Non-residential Land Uses	\$9.16
Total Revenue Credit ⁽⁵⁾	
- Residential Land Uses	\$19.73
- Non-residential Land Uses	\$16.47
Net Impact Cost⁽⁶⁾	
- Residential Land Uses	\$513.99
- Non-residential Land Uses	\$517.25

1) Source: Table 3

2) Source: Table 4

3) Average annual capital improvement credit (Item 2) for a capitalization rate of 3% over 25 years

4) Source: Table 5

5) Sum of total capital improvement credit (Item 3) and capital lease credit (Item 4)

6) Total impact cost (Item 1) less total revenue credit (Item 5)

Compared to the last study, the cost per call increased by nearly 95 percent due to additional building and vehicle/equipment inventory as well as a more completed list of vehicle/equipment inventory. The credit per call decreased by 25 percent, which represents approximately 4 percent of the total cost, down from 10 percent in the previous study. The net cost per call doubled (an increase of 105 percent). The remaining changes in fee levels are due to fluctuations on call data.

Demand Component

In determining the impact fee for each land use on a per call basis, it is necessary to determine the service delivery to residential and non-residential land uses. In developing the call-based demand, the average annual calls by land use between 2011 and 2016 were reviewed. The following calls were excluded from the analysis:

- **MOBHUs:** Based on discussions with the OCSO, calls classified as mobile phone hang ups (MOBHU) were excluded. The OCSO indicated that when these calls are received by the Communication Center, if the call taker does not hear anything before it is disconnected, the call taker attempts to reverse dial the number twice before moving onto the next call. The only time that a deputy is dispatched to this type of call is when the call taker hears something in the background that gives a reason for concern.
- **Non-patrol functions:** Similar to the 2012 impact fee study, calls that are not related to patrol functions are excluded from the call-based demand calculations, including:
 - DOR Code 8600 - County (Other than Public Schools, Colleges, Hospitals) Including Non-Municipal Govt.;
 - DOR Code 8700 - State (Other than Military, Forests, Pks., Rec Areas, Hospitals, and Colleges);
 - DOR Code 8600 - Federal; and
 - DOR Code 8900 - Municipal (Other than Parks, Rec Areas, Colleges, and Hospitals).
- **Public schools:** Calls to public schools were also excluded since public schools are not assessed impact fees, including:
 - DOR Code 8300 – School
 - DOR Code 8400 – College

With the exclusion of calls assigned to these land uses, the total annual average number of calls is reduced from 406,919 to 392,539. Of the 392,539 calls, 210,373 could be assigned to a land use. Of the remaining 182,166 calls, 158,544 were associated with mixed use properties, 20,155 were unclassified, 151 could not be allocated to a land use in the schedule, and 3,316 calls were to vacant properties. In order to assign all calls to the appropriate land

uses, the percentage distribution of assigned calls is utilized in allocating unassigned calls to a land use. **Table 7** presents this analysis.

The final step in the call based demand calculations involves the calculation of calls per units of development, which are also presented in Table 7. In order to determine the number of units to each respective land use, a review of the Orange County Property Appraiser's Database was conducted. Of the residential land uses, single family, multi-family, and mobile homes are measured per dwelling unit. Hotel/motel is measured per room and is calculated based on the average gross square footage per room of 843, estimated based on sample of existing hotels/motels. Non-residential land uses are measured by gross building square footage.

Table 7
Orange County Law Enforcement Call Based Demand

Land Use	Unit	Average Calls per Year (2011-16) ⁽¹⁾	% Distribution (All Assigned Uses) ⁽²⁾	Distribution of Unassigned Calls ⁽³⁾	Total Calls ⁽⁴⁾	Revised Percentage ⁽⁵⁾	Units of Development ⁽⁶⁾	Calls per Unit ⁽⁷⁾
<i>Calls Assigned to a Land Use</i>								
SFR Detached	du	93,716	44.6%	81,245	174,961	44.6%	187,525	0.93
Multi-Family	du	18,653	8.9%	16,213	34,866	8.9%	97,353	0.36
Mobile Home	du	4,796	2.3%	4,190	8,986	2.3%	13,811	0.65
Hotel/Motel	room	26,487	12.6%	22,953	49,440	12.6%	67,852	0.73
Commercial/Retail	1,000 gross sf	48,893	23.2%	42,263	91,156	23.2%	62,998	1.45
Office/Institutional	1,000 gross sf	11,447	5.4%	9,837	21,284	5.4%	43,675	0.49
Manufacturing	1,000 gross sf	1,477	0.7%	1,275	2,752	0.7%	10,242	0.27
Warehousing	1,000 gross sf	4,661	2.2%	4,008	8,669	2.2%	57,195	0.15
School - Private	1,000 gross sf	243	0.1%	182	425	0.1%	2,516	0.17
Subtotal - Assigned Calls		210,373	100.0%	182,166	392,539	100.0%		
<i>Calls Unassigned to a Land Use</i>								
Mixed Use		158,544						
Null		20,155						
Other		151						
Vacant		3,316						
Subtotal - Unassigned Calls⁽⁸⁾		182,166						
Total		392,539						

- 1) Source: Orange County Sheriff's Office. Represents the average annual number of calls during the 2011 to 2016 time period, excluding calls not related to patrol functions, calls from public schools, and MOBHU classified calls.
- 2) Percent of all assigned calls (210,373) for each land use
- 3) Distribution of all assigned calls (Item 2) multiplied by the number of unassigned calls (Item 8)
- 4) Average annual calls (Item 1) plus the distribution of unassigned calls (Item 3)
- 5) Percent of total calls (392,539) for each land use.

- 6) Source: Orange County Property Appraiser's Database. Non-residential land uses are measured in terms of gross square feet. The hotel/motel land use utilizes an average of 843 gross square footage per room to convert total gross area into hotel/motel rooms.
- 7) Total calls (Item 4) divided by units of development (Item 6)
- 8) Sum of mixed use, null, other, and vacant calls

Calculated Law Enforcement Impact Fee Schedule

Based on the analysis presented in this report, a law enforcement impact fee schedule was developed for both residential and non-residential land uses, and is presented in **Table 8**. The total impact fee is calculated by multiplying the net impact cost per call from Table 6 by the number of calls per unit shown in Table 7.

Table 8
Calculated Law Enforcement Impact Fee Schedule

Land Use	Unit	Impact Cost per Call ⁽¹⁾	Calls per Unit ⁽²⁾	Total Impact Fee ⁽³⁾	Current Adopted Fee ⁽⁴⁾	Percent Change ⁽⁵⁾
SFR Detached	du	\$513.99	0.93	\$478	\$271	76%
Multi-Family	du	\$513.99	0.36	\$185	\$319	-42%
Mobile Home	du	\$513.99	0.65	\$334	\$263	27%
Hotel/Motel	room	\$517.25	0.73	\$378	\$135	180%
Commercial/Retail	1,000 gross sf	\$517.25	1.45	\$750	\$494	52%
Office/Institutional	1,000 gross sf	\$517.25	0.49	\$253	\$109	132%
Manufacturing	1,000 gross sf	\$517.25	0.27	\$140	\$118	19%
Warehousing	1,000 gross sf	\$517.25	0.15	\$78	\$57	37%
School - Private	1,000 gross sf	\$517.25	0.17	\$88	\$32	175%

1) Source: Table 6

2) Source: Table 7

3) Impact cost per call (Item 1) multiplied by the number of calls per unit (Item 2)

4) Source: Orange County Impact Fee Administration, Development Services

5) Percent change from the current adopted fee (Item 4) to the total impact fee (Item 3)

Impact Fee Schedule Comparison

As part of the work effort in updating the Orange County law enforcement impact fee program, the County's calculated impact fee schedule was compared to the adopted fee schedule and those of the jurisdictions OCSO requested to be included in the comparison. Additionally, this review includes only the communities that have implemented law enforcement impact fees. **Table 9** presents this review. **Table 10** presents a comparison of the current adopted single family impact fee rate as well as the fully calculated rate for each of the Florida counties that implemented law enforcement impact fees. As shown, Orange County's adopted and calculated fees are within the range of counties charging law enforcement impact fees.

Table 9
Law Enforcement Impact Fee Schedule Comparison

Land Use	Unit ⁽¹⁾	Orange County		Miami-Dade County ⁽⁴⁾	Palm Beach County ⁽⁵⁾	Polk County ⁽⁶⁾
		Calculated Fees ⁽²⁾	Adopted Fees ⁽³⁾			
Date of Last Update		2017	2012	2005	2012	2015
Adoption Percentage		100%	100%	N/A	95%	50%
Residential:						
Single Family (2,000 sf)	du	\$478	\$271	\$541	\$128	\$129
Non-Residential:						
Light Industrial	1,000 sf	\$78	\$118	\$375	\$7	\$37
Office (50,000 sq ft)	1,000 sf	\$253	\$109	\$375	\$10	\$250
Retail (125,000 sq ft)	1,000 sf	\$750	\$494	\$375	\$57	\$257
Bank w/Drive-Thru	1,000 sf	\$750	\$494	\$375	\$10	\$257
Fast Food w/Drive-Thru	1,000 sf	\$750	\$494	\$375	\$57	\$257

1) du = dwelling unit

2) Source: Table 8

3) Source: Orange County Impact Fee Administration; Community, Environmental & Development Services Department

4) Source: Miami-Dade Zoning Development Services Division. Impact fees were adopted in 2005 with an annual adjustment based on the CPI starting in 2006/07.

5) Source: Palm Beach County Planning, Zoning and Building Department, includes only the vehicle and equipment value. Law enforcement buildings are included in the general government buildings impact fee.

6) Source: Polk County Building and Construction Department

Table 10
Law Enforcement, Single Family Impact Fee Schedule Comparison

County	Date of Last Update Study	Adoption %	Single Family (2,000 sf du)	Single Family Fee @ 100%⁽¹⁾
Nassau County ⁽²⁾	2015	100%	\$73	\$73
St. Johns County ⁽³⁾	2011	100%	\$91	\$80
Hernando County ⁽⁴⁾	1995	N/A	\$86	\$86
Monroe County ⁽⁵⁾	1992	100%	\$150	\$150
Palm Beach County ⁽⁶⁾	2015	N/A	\$128	\$192
St. Lucie County ⁽⁷⁾	2016	100%	\$232	\$232
Polk County ⁽⁸⁾	2015	50%	\$129	\$259
Citrus County ^{(9)*}	2014	100%	\$267	\$267
Orange County (Adopted)⁽¹⁰⁾	2012	100%	\$271	\$271
Sarasota County ⁽¹¹⁾	2016	100%	\$281	\$281
Wakulla County ^{(12)*}	2009	25%	\$85	\$339
Miami-Dade County ⁽¹³⁾	2005	N/A	\$541	\$411
DeSoto County ^{(14)*}	2006	100%	\$423	\$423
Indian River County ⁽¹⁵⁾	2014	100%	\$436	\$436
Orange County (Calculated)⁽¹⁶⁾	2017	N/A	\$478	\$478
Jefferson County ^{(17)*}	2007	100%	\$481	\$481
Charlotte County ⁽¹⁸⁾	2014	40%	\$197	\$493
Collier County ⁽¹⁹⁾	2017	100%	\$587	\$587
Manatee County ⁽²⁰⁾	2015	90%	\$536	\$596
Martin County ⁽²¹⁾	2012	100%	\$760	\$760

* Indicates fees are currently under moratorium

Note: Counties surrounding Orange County are highlighted.

- 1) Fee shown is the fully calculated single family rate
- 2) Source: Nassau County Planning and Economic Opportunity Department
- 3) Source: St. Johns County Planning and Zoning. Fee was adopted in 2011 at 100% and is annually indexed based off construction costs.
- 4) Source: Hernando County Planning Department. Date of original study (1995) shown with internal updates based on the 1995 study conducted afterword's.
- 5) Source: Monroe County Planning & Environmental Resources Department
- 6) Source: Palm Beach County Planning, Zoning, and Building Department. Rate shown under single family fee at 100% reflects most recent on-going technical study.
- 7) Source: St. Lucie County Planning & Development Services Department.
- 8) Source: Polk County Building and Construction Department
- 9) Source: Citrus County Growth Management Department. Fee is suspended through April 2018.
- 10) Source: Orange County Impact Fee Administration; Community, Environmental & Development Services Department
- 11) Source: Sarasota County Planning and Development Services Department
- 12) Source: Wakulla County Planning and Community Development. Fee is currently suspended.

- 13) Source: Miami-Dade Zoning Development Services Division. Impact fees were adopted in 2005 with an annual adjustment based on the CPI starting in 2006/07.
- 14) Source: Desoto County Building Department. Fees are suspended through November 2017.
- 15) Source: Indian River County Planning Division
- 16) Source: Table 8
- 17) Source: Jefferson County Planning Department. Fee is currently suspended.
- 18) Source: Charlotte County Community Development Department. The law enforcement and correctional facilities impact fee is shown and includes the 2.46% administrative fee.
- 19) Source: Collier County Impact Fee Administration Division
- 20) Source: Manatee County Impact Fee Administration
- 21) Source: Martin County Growth Management Department

Indexing

In many cases, impact fees are reviewed periodically (every three to five years, etc.) as opposed to on an annual basis. If no adjustment to the impact fee schedule is made during this period, a situation can be created where major adjustments to the impact fee schedule likely become necessary due to the time between the adjustments. During periods of cost increases, the need for significant adjustments also creates major concerns in the development community. To address this issue, it is suggested that the law enforcement impact fees be adjusted for building, land, and equipment costs on an annual basis. The remainder of this section provides the method for calculating the combined index.

Land Cost

As shown in **Table 11**, between 2011 and 2016, just value of vacant land increased by an annual average of 5 percent in the law enforcement service area. Given the high level of fluctuations in land values, it is recommended to review a longer period as well. A review of land value changes from 1976 to 2016 suggested an average increase of 5.6 percent per year. This figure is consistent with the increase experienced over the past five years. When the change in a shorter period suggests a large average annual increase (for example, 8 percent or greater), this average can be moderated by a longer-term period.

Table 11
Vacant Land Value Change

Year	Just Value	Percent Change
2011	\$1,631,338,304	-
2012	\$1,523,407,539	-6.6%
2013	\$1,502,056,289	-1.4%
2014	\$1,726,971,898	15.0%
2015	\$1,865,604,766	8.0%
2016	\$2,079,704,020	11.5%
Average		5.3%

Source: Florida Department of Revenue, Ad Valorem Valuation and Tax Data files

Building Construction Cost

For building construction costs, a common index used is the national building cost index provided by Engineering-News Record. As shown in **Table 12**, the building cost index has remained fairly stable averaging 2 percent over the past five-years.

Table 12
Building Cost Index (National Average)

Year	Annual Avg	Percent Change
2011	5,058	-
2012	5,174	2.3%
2013	5,278	2.0%
2014	5,387	2.1%
2015	5,518	2.4%
2016	5,645	2.3%
Average		2.2%

Source: Engineering News-Record, Building Cost Index

Equipment Costs

For equipment costs, the Consumer Price Index (CPI) within the South Region is utilized for indexing purposes. **Table 13** presents the annual cost increase over the past five-years, which averages 1 percent.

Table 13
Equipment Cost Index (South Region)

Year	Annual Avg	Percent Change
2011	139.2	-
2012	142.1	2.1%
2013	144.3	1.5%
2014	146.5	1.5%
2015	145.9	-0.4%
2016	147.3	1.0%
Average		1.1%

Source: Bureau of Labor Statistics, CPI-All Urban Consumers, All Items

Application

To index the law enforcement impact fee schedule previously presented in this report, the combined index should first be calculated, which is shown in **Table 14**. The second column summarizes the average cost increases presented previously in Tables 11, 12, and 13. The third column presents the percent of the total cost for each inventory component, which are then multiplied with the annual change to create the overall index. The combined index for the law enforcement impact fee is then applied to the calculated fees and is presented in **Tables 15**.

Table 14
Indexing Application – Combined Index

Cost Component	Annual Change⁽¹⁾	Percent of Total⁽²⁾	Index⁽³⁾
Land Cost	5.3%	4.4%	0.2%
Building Cost	2.2%	37.7%	0.8%
Vehicle/Equipment Cost	1.1%	57.9%	0.6%
Total			1.6%

1) Source: Tables 11, 12, and 13

2) Source: Table 3

3) Annual change (Item 1) multiplied by the percent of total (Item 2)

Table 15 presents the indexed fee schedule for the next four years using the overall index calculated and shown in Table 14. It is recommended the calculated index be reviewed and recalculated annually, especially during time periods when costs fluctuate significantly.

**Table 15
Indexed Fees**

Land Use	Unit	Year 1 Calculated Impact Fee ⁽¹⁾	Year 2 ⁽²⁾	Year 3 ⁽³⁾	Year 4 ⁽⁴⁾	Year 5 ⁽⁵⁾
		Annual Index ⁽⁶⁾	1.6%	1.6%	1.6%	1.6%
SFR Detached	du	\$478	\$486	\$494	\$502	\$510
Multi-Family	du	\$185	\$188	\$191	\$194	\$197
Mobile Home	du	\$334	\$339	\$344	\$350	\$356
Hotel/Motel	room	\$378	\$384	\$390	\$396	\$402
Commercial/Retail	1,000 gross sf	\$750	\$762	\$774	\$786	\$799
Office/Institutional	1,000 gross sf	\$253	\$257	\$261	\$265	\$269
Manufacturing	1,000 gross sf	\$140	\$142	\$144	\$146	\$148
Warehousing	1,000 gross sf	\$78	\$79	\$80	\$81	\$82
School - Private	1,000 gross sf	\$88	\$89	\$90	\$91	\$92

1) Source: Table 8

2) Year 1 figures (Item 1) multiplied by (1+0.016), annual index (Item 6)

3) Year 2 figures (Item 2) multiplied by (1+0.016), annual index (Item 6)

4) Year 3 figures (Item 3) multiplied by (1+0.016), annual index (Item 6)

5) Year 4 figures (Item 4) multiplied by (1+0.016), annual index (Item 6)

6) Source: Table 14

Appendix A
Building and Land Value Analysis -
Supplemental Information

Appendix A

This appendix provides the additional data and information on building and land value estimates.

Building Values

In determining the appropriate unit value for buildings, the following analysis was conducted:

- A review of recently built or planned law enforcement buildings in Orange County;
- Insurance value of the existing inventory; and
- Construction cost observed in other jurisdictions for law enforcement facilities.

The most recent substation construction included the following:

- Sector II, Substation, which was constructed in 2010 for \$168 per square foot for construction and site work.
- Sector VI, Substation, which was built in 2017 at a cost of \$386 per square foot, including construction, site work, design/professional fees, and project management fees.
- The weighted average cost of these two buildings is \$217 per square foot.

The County has several buildings being planned, but these plans are in preliminary stages and cost estimates are not yet available.

During the 2012 impact fee study, the value of primary buildings was estimated at \$212 per square foot. Applying Engineering News Records Building Cost Index for the cost changes between 2012 and 2017 resulted in a unit cost of \$231 per square foot (a 9-percent increase).

The insurance values of existing primary buildings averaged \$188 per square foot while this figure was \$174 per square foot for support buildings, including contents. It is important to note that insurance values are considered to be a conservative estimate because the value of the foundation and other more permanent parts of the structure tend to be excluded since they would not have to be rebuilt if the structure is damaged or lost.

A review of law enforcement building cost observed during studies completed over the past four years averaged approximately \$230 per square foot, with a range of \$175 per square foot to \$300 per square foot.

Given this data and information, building cost for primary buildings was estimated at \$225 per square foot. The value of support facilities was estimated at \$175 per square foot, based primarily on insurance values. These costs reflect all costs related to constructing buildings (such as design, construction, site preparation, furniture/fixture/equipment, permitting, etc.) with the exception of land purchase. This information is summarized in **Table A-1**.

Table A-1
Law Enforcement Buildings
Total Building Value per Square Foot

Source	Year	Cost per Square Foot
Recent Construction:		
- Sector II Substation	2010	\$168
- Sector VI Substation	2017	\$386
Recent Construction -- Weighted Average		\$217
Adjusted 2012 Building Cost based on ENR Index		
	2012 to 2017	\$231
Insurance Values of Existing Buildings with Contents:		
- Primary Buildings	2017	\$188
- Support Buildings	2017	\$174
Data from Other Jurisdictions	2013-2016	\$228
Used in the Study:		
- Primary Buildings		\$225
- Support Buildings		\$175

Land Values

In order to determine land value for future land purchases for law enforcement facilities, the following data/information was evaluated:

- The market (or just) value of parcels where current law enforcement buildings are located based on information provided by the Orange County Property Appraiser;

- Vacant land sales and market/just values of all vacant land in the law enforcement service area; and
- Land use characteristics of the areas where current law enforcement facilities are located.

The value of current parcels as reported by the Property Appraiser averages \$81,000 per acre with a range of \$6,000 per acre to \$2.2 million per acre. A review of vacant land sales and vacant land values as reported by the Orange County Property Appraiser suggested a range of \$36,000 per acre to \$75,000 per acre for residential properties, \$139,000 per acre to \$413,000 per acre for commercial parcels, \$76,000 per acre to \$282,000 per acre for industrial properties, and \$20,000 per acre to \$31,000 per acre for agriculturally zoned properties. **Table A-2** presents this review.

Table A-2
Land Value per Acre

Acreage	Weighted Average Value per Acre				
	All	Vres	Vcom	Vind	Vag
<i>Vacant Land Sales (2013-2016)</i>					
0.5 - 5.00 acres	\$140,829	\$70,303	\$413,168	\$217,437	\$30,618
5.01 - 10 acres	\$163,853	\$74,962	\$290,587	\$281,882	\$19,814
10.01 - 15 acres	\$137,960	\$55,110	\$272,889	\$127,405	\$20,177
Total (0.5 - 15 acres)	\$144,751	\$69,643	\$354,220	\$196,319	\$29,353
<i>Vacant Land Values (2017)</i>					
0.5 - 5.00 acres	\$75,477	\$38,126	\$221,170	\$118,104	\$19,861
5.01 - 10 acres	\$79,408	\$37,217	\$139,181	\$90,518	\$20,440
10.01 - 15 acres	\$98,353	\$36,267	\$171,429	\$75,561	\$20,541
Total (0.5 - 15 acres)	\$79,084	\$37,845	\$186,760	\$100,357	\$19,946

Source: Orange County Property Appraiser

Unit costs obtained by land use are then applied to the distribution of the current inventory. Table A-3 presents this analysis.