

ORDINANCE NO. 2018-\_\_

AN ORDINANCE AMENDING THE ORANGE COUNTY  
FIRE RESCUE IMPACT FEE ORDINANCE, CODIFIED AT  
ARTICLE III, 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 III, Chapter 23, Orange County Code.* The  
Orange County Fire Rescue Impact Fee Ordinance, codified at Article III, 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 III  
FIRE RESCUE IMPACT FEE

**Sec. 23-56. Short title, authority and applicability.**

(a) This article shall be known and may be cited as the  
"Orange County Fire Rescue 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 fire and rescue  
services 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.

38                   **Sec. 23-57.    Definitions.**

40                   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:

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

46                   ~~*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.~~

48                   *Capital improvement* shall mean, but is not limited to, site  
planning, land acquisition, site improvements, buildings, motor  
50 vehicles, personal equipment and communications facilities, but  
excludes maintenance and operations. Such capital improvements  
52 must have an expected use life of five (5) years or more.  
Acquisition of a "capital improvement" means ~~the a purchase of  
54 facilities, equipment or technology a capital improvement that  
expands the capacity of the Orange County Fire Rescue  
56 Department to provide fire and rescue protection and prevention  
services made necessary by growth. When growth creates a  
58 condition that renders an existing technological system  
functionally obsolete, then, impact fees may be utilized as a  
60 principal source for the expenses of acquiring a successive system.~~

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

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

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

76                   *County facilities constructed for nonproprietary  
governmental purposes* shall mean facilities constructed by or for  
78 the county to be used for governmental purposes, but shall exclude

Orange County Utilities Department and Orange County Convention Center Facilities.

*Duplex* shall mean the primary use of a lot for two (2) attached dwelling units.

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

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

*Impact fee study* shall mean the "Fire Rescue Impact Fee Update Study," prepared by Tindale OliverDuncan Associates, dated ~~March 21, 2012~~ August 22, 2017.

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

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

*Multifamily* shall mean the primary use of a lot for three (3) or more attached dwelling units. For the purposes of this ordinance, time-share development shall be considered as multifamily.

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

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

*Single-family* shall mean the primary use of a lot for a single dwelling unit, including a mobile home, not attached to any other dwelling unit, or for a mobile home park.

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

120 **Sec. 23-57.5. Rules of construction.**

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

124 (1a) In case of any difference of meaning or implication  
126 between the text of this subdivision and any caption, illustration,  
summary table, or illustrative table, the text shall control.

128 (2b) The word "shall" is always mandatory and not  
discretionary; the word "may" is permissive.

130 (3c) Words used in the present tense shall include the  
132 future and words used in the singular number shall include the  
plural and the plural the singular, unless the context clearly  
indicates the contrary.

134 (4d) The word "person" includes an individual, a  
corporation, a partnership, an incorporated association, or any  
other similar entity.

136 (5e) Unless the context clearly indicates the contrary,  
138 where a regulation involves two (2) or more items, conditions,  
provisions, or events connected by the conjunction "and," "or," or  
"either ... or," the conjunction shall be interpreted as follows:

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

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

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

148 (6f) The word "includes" shall not limit a term to the  
150 specific example but is intended to extend its meaning to all other  
instances or circumstances of like kind or character.

**Sec. 23-58. Findings and declarations.**

152 (a) The board of county commissioners finds that new  
154 development in the unincorporated area of the county requires  
156 additional governmental services and facilities, including  
specifically fire and rescue services provided by the county fire  
158 rescue department. 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 fire and rescue services, 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 fire and rescue 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 fire and rescue 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 fire rescue department provides fire and rescue services 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 Battalion Districts (or similar zones or districts) which have been created by the Fire Chief for administrative purposes. The capital ~~facilities~~ improvements funded by impact fees shall provide fire and rescue services to the new users within the unincorporated area of the county.

(g) The provision of fire and rescue 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 fire and rescue 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.

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

(i) The provisions of this article relating to adequate fire and rescue services in the county, the additional fire and rescue services needed for new development in the county, the capital

costs relating to those additional fire and rescue services needed for new development in the county, and the impact fee for those capital costs are based upon and supported by the findings and recommendations contained within the impact fee study. The board of county commissioners hereby finds that the calculation of the impact fee in the impact fee study is based on the most recent and localized data, and approves and adopts the impact fee study.

(j) Continuing to provide, at a minimum, the existing level of fire and rescue services within the county, which is the basis of calculated impact fees in the impact fee study, is essential to and in the best interests of the public health, safety, and general welfare of the citizens of the county.

(k) It is the intent of the board of county commissioners that the impact fees imposed pursuant to this article be used to pay for those capital costs related to the additional fire and rescue services required for new development in the county.

(l) Based on the impact fee study, the board of county commissioners hereby finds that there exists a reasonable relationship, or rational nexus, between the capital costs of providing fire and rescue services and the impact fees imposed on new development by this article.

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

**Sec. 23-59. Fire rescue impact fee fund established.**

(a) There is hereby established one fire rescue impact fee fund for the impact fees collected pursuant to this article.

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

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

(a) Impact Fees. The following impact fees, with annual indexing at two percent (2.0%), are hereby imposed upon all new development in the unincorporated area of the county:

## Fire Rescue 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>	<u>Year 3:</u> <u>May 1, 2020</u> <u>April 30, 2021</u>	<u>Year 4:</u> <u>May 1, 2021</u> <u>April 30, 2022</u>	<u>Year 5:</u> <u>May 1, 2022 –</u> <u>April 30,</u> <u>2023+</u>
<b>Residential:</b>					
Single-Family/ Duplex/Mobile Home (per dwelling unit)	\$319 \$270.00	\$325	\$332	\$339	\$346
Multifamily (per dwelling unit)	\$219 \$197.00	\$223	\$227	\$232	\$237
Hotel/Motel (per room)	\$182 \$149.00	\$186	\$190	\$194	\$198
<b>Nonresidential:</b>					
Commercial Retail/ Assembly (per 1,000 living area sq. ft.)	\$289 \$297.00	\$295	\$301	\$307	\$313
Office/Institutional (per 1,000 living area sq. ft.)	\$254 \$117.00	\$259	\$264	\$269	\$274
Industrial (per 1,000 living area sq. ft.)	\$78 \$50.00	\$80	\$82	\$84	\$86
Storage (per 1,000 living area sq. ft.)	\$18 \$49.00	\$18	\$19	\$19	\$19
Annual Index <sup>(6)</sup>	2.0%	2.0%	2.0%	2.0%	

(1) Source: Table 7 of impact fee study.

(2) Year 1 figures multiplied by (1+0.02), annual index.

(3) Year 2 figures multiplied by (1+0.02), annual index.

(4) Year 3 figures multiplied by (1+0.02), annual index.

(5) Year 4 figures multiplied by (1+0.02), annual index. In the event the impact fee schedule is not updated by May 1, 2023, the impact fees shall continue at the Year 5 rates until the impact fee schedule is updated.

(6) Source: Table 13 of impact fee study.

### (b) Comparable uses; ~~adjustments.~~

(1) If the type of development activity for which a building permit is applied is not specified on the above fee schedule, the fee assessed shall be the fee applicable to the most

250 nearly comparable type of land use on the above fee schedule. The  
252 impact fee applicable for the most nearly comparable type of land  
use may be adjusted to a fee that accurately reflects the impacts of  
such development on the county fire rescue department.

254 ~~(2) The person applying for the issuance of a~~  
~~building permit, at that person's option, may submit a study~~  
256 ~~prepared by a professional with impact fee experience, indicating~~  
~~that the fees set out in paragraph (a) above are not appropriate for~~  
258 ~~that person's particular development. Based upon convincing and~~  
~~competent evidence, the fee may then be adjusted to that fee~~  
~~amount appropriate for that particular development.~~

260 (c) Alternative impact fee calculation.

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

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

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

284 (3) If a previous project has submitted a local study  
286 consistent with the criteria required herein, and if such study is  
determined by the county to be current, the impact upon the fire  
288 and rescue facilities as described in such prior local study shall be  
presumed to exist for other similar projects. In such circumstances,  
290 the alternative impact fee shall be established to reflect the impact  
upon the fire and rescue facilities as described in the prior local  
study. There shall be a rebuttable presumption that an alternative



292 impact fee study conducted more than three (3) years earlier is  
293 invalid.

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

298 (5) Any agreement proposed by an applicant  
299 pursuant to this subsection must be presented to and approved by  
300 the board of county commissioners prior to the issuance of any  
301 certificate of occupancy, temporary or permanent. Any such  
302 agreement may provide for execution by mortgagees, lien holders,  
303 or contract purchasers, in addition to the landowner, and may  
304 permit any party to record such agreement in the official records of  
305 the county. The board of county commissioners shall approve such  
306 an agreement only if it finds that the agreement will apportion the  
307 burden of expenditure for new facilities in a just and equitable  
308 manner, consistent with the principles set forth in *Contractors &*  
309 *Builders Association v. City of Dunedin*, 329 So. 2d 314 (Fla.  
310 1976), *Hollywood Inc. v. Broward County*, 432 So. 2d 606 (Fla.  
311 4th DCA 1983, *cert. denied*, 440 So. 2d 352 (Fla. 1983); and *Home*  
312 *Builders and Contractors Association of Palm Beach County, Inc.*  
313 *v. Board of County Commissioners of Palm Beach County*, 446 So.  
314 2d 140 (Fla. 4th DCA 1984), *cert. denied*, 451 So. 2d 848 (Fla.  
315 1984).

316 (6) Any applicant or owner who submits a  
317 proposed alternative impact fee pursuant to this subsection and  
318 desires the immediate issuance of a building permit shall pay, prior  
319 to the issuance of the building permit, the applicable impact fee  
320 pursuant to subsection (a). Such payment shall be paid to the  
321 county and shall be noted in writing as "paid under protest" and  
322 shall not be construed as a waiver of any review rights. Any  
323 difference between the amount paid and the amount due, as  
324 determined by the county, shall be refunded to the applicant or  
325 owner. The county shall not pay interest on the funds paid under  
326 protest and subsequently refunded unless interest has been earned  
on such funds.

328 (ed) *Periodic updates.* This article shall be reviewed by  
329 the board of county commissioners at least every five (5) years.  
330 The review shall consider actual calls for service recorded by the  
331 fire rescue department and actual capital costs for capital  
332 improvements purchased by the county to provide fire and rescue  
333 services. The purpose of this review is to analyze the effects of  
334 inflation on the actual costs of capital improvements, and to review  
and revise, if necessary, the fee charged new development to

336 ensure it will not exceed its pro rata share for the reasonably  
338 anticipated expansion costs of capital improvements for fire and  
rescue services necessitated by new development.

(~~de~~) *Time of payment.*

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

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

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

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

362 (3) For any such ~~eligible commercial project or~~  
~~eligible certified multifamily affordable housing project where~~  
364 ~~payment of the impact fee is deferred~~, the impact fee for the entire  
project shall be paid not later than when prepower is authorized for  
366 the first building or the first certificate of occupancy, temporary or  
permanent, is issued for the project.

368 (4) a. If the fire rescue impact fee is  
deferred at the time of issuance of the building permit as  
authorized by subsection (~~de~~)(2) for an eligible commercial  
370 project, a service charge shall be assessed and a notice of  
nonpayment setting forth the legal description of the property and  
372 the amount of the impact fee liability shall be executed by the  
county. The county shall serve notice upon the owner by certified  
374 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~~  
376 ~~amount of the impact fee, and all interest, penalties, and the costs~~  
and fees for collection, coequal with the lien of all state, county,  
378 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 fire rescue impact fee is not paid prior to the authorization of prepower or issuance of the first certificate of occupancy (temporary or otherwise permanent), 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 fire rescue 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 fire rescue impact fee (including any costs and fees) has been paid.

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

**Sec. 23-61. 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 fire rescue services 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 expenditures for capital improvements 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 fire rescue service functions, the inherent mobile nature of fire and rescue service activities and the periodic need to reassign personnel and equipment among battalion areas, 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 fire rescue impact fees shall be expended on capital improvements pursuant to this article unless or until the board of county commissioners approves such expenditures by motion at a regularly scheduled public hearing. Such review shall occur only after the fire rescue department has submitted a request for purchase identifying the capital improvements 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.

~~(e) — Impact agreement. In lieu of the payment of fees as calculated in section 23-59, 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 a building permit may propose to enter into an alternative impact fee 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 must include a study prepared by a professional with impact fee experience and 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 23-59; 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, lienholder 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 building permit or permits for the proposed development.

(ec) *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.

(d) Appeal process.

(1) If an applicant disagrees with the determination rendered by county staff, the applicant may appeal the determination to the county's Impact Fee Committee, pursuant

510 to Administrative Regulations 4.01 and 4.02, as may be amended,  
512 upon payment of a nonrefundable processing fee. If the applicant  
514 decides to appeal the determination, the applicant shall file a  
516 written notice of appeal with the Impact Fee Committee  
518 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.

520 (2) In the event the applicant disagrees with the  
522 decision of the Impact Fee Committee, the applicant may appeal  
524 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.

526 (3) In the event the applicant disagrees with the  
528 decision of the Development Review Committee, the applicant  
530 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.

532 (4) In the event an applicant disagrees with the  
534 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.

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

540 (e) *Refunds.* Any impact fee refund must comply with the  
542 provisions of Orange County Administrative Regulation No.  
4.04.01, as may be amended.

542 **Sec. 23-62. Exemptions and discounts.**

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

546 (1a) Any addition or expansion to a residential building  
548 which does not increase the number of dwelling units in the  
building.

550 (2b) Any accessory building, including detached or  
attached garages, for a subordinate or incidental use to a

single-family or multifamily dwelling unit on the same residential property or the primary residential building and, 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.

(f) County facilities constructed for nonproprietary governmental purposes.

(6g) Parking garages that are accessory to a principal use.

~~(b) (1) Notwithstanding that it may have an impact on fire and rescue services provided by the fire rescue department, 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 fire rescue 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 fire rescue impact fee payable under section 23-59 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 23-62(b) and to ensure that a housing unit that is granted a discount remains affordable.~~

~~(c) County facilities constructed for nonproprietary governmental purposes.~~

#### **Sec. 23-63. 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 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 six (6) years from the date on which the fee was received.

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

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

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

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

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

(c) Within sixty (60) days from the date of receipt of petition for refund, the county administrator or his designee shall advise the petitioner and the board of county commissioners of the status of the fee requested for refund. For the purposes of determining whether fees have been spent or encumbered, the first



634 money placed in a trust fund account shall be deemed to be the  
636 first money taken out of that account when withdrawals have been  
made in accordance with section 23-61~~above~~.

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

642 **Sec. 23-64. Municipal opt-in procedures.**

644 Any incorporated municipality within the county may enter  
into an intergovernmental agreement with the county to participate  
646 in the fire rescue impact fee program as established by this article,  
subject to the provisions of this article and the terms of the  
intergovernmental agreement.

648 **Sec. 23-65. Economic impact determination.**

650 The board of county commissioners does hereby determine  
and find, pursuant to subsection 30-2(b)(2), that sufficient  
652 information has been provided for the board of county  
commissioners to assess the economic impact of this article,  
654 including as amended, on the development of real property in the  
county. The board of county commissioners therefore does hereby  
determine and find that no further economic impact statement or  
656 economic impact information is required in this matter. If the  
ongoing planning studies and periodic review reveal a detrimental  
658 economic impact, this article shall be reviewed and revised  
accordingly.

660 **Sec. 23-66. Penalty.**

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

**Secs. 23-67 – 23-85. Reserved.**

666  
***Section 2. Effective date; publishing of notice of increase in impact fees.***

668 (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,

670 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 fire and rescue impact fees, with annual indexing thereafter of two percent  
(2%.)

ADOPTED THIS 9<sup>TH</sup> 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