

BCC Mtg. Date: January 9, 2018

EFFECTIVE DATE: May 1, 2018

ORDINANCE NO. 2018-01

**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 B~~ building C 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.

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, 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 tourist trailer camps.

Impact fee study shall mean the "Orange County Law Enforcement Impact Fee Study," prepared by ~~TischlerBiseTindale~~ Oliver, dated ~~April 12, 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 two (2) 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.

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

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

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.

Sec. 23-27.5. Rules of construction.

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

(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.

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

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

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

(e) Unless the context clearly indicates the contrary, 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:

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

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

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

(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.

Sec. 23-28. Findings and declarations.

(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.

(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.

(i) The provisions of this article relating to adequate law enforcement services in the county, the additional law enforcement services needed for new development in the county, the capital costs relating to those additional law enforcement 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 ~~these portions of the impact fee study relating to the capital costs of law enforcement services.~~

(j) The board of county commissioners hereby acknowledges as the existing standard for law enforcement 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 fee study.

(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 also consistent with the acknowledged service standard index and recommendations of 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.

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

(m) 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 law enforcement services required for new development in the county.

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

(o) 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 law enforcement services, as limited and restricted by this article.

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

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

(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; comparable uses; alternative impact fee calculation; periodic updates; time of payment.

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

[THE IMPACT FEE SCHEDULE IS SHOWN ON PAGE 8.]

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>(1)</u>	<u>Year 2:</u> <u>May 1, 2019 –</u> <u>April 30, 2020</u> <u>(2)</u>	<u>Year 3:</u> <u>May 1, 2020 –</u> <u>April 30, 2021</u> <u>(3)</u>	<u>Year 4:</u> <u>May 1, 2021 –</u> <u>April 30, 2022</u> <u>(4)</u>	<u>Year 5:</u> <u>May 1, 2022 –</u> <u>April 30,</u> <u>2023+ (5)</u>
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				
<u>Annual Index</u> ⁽⁶⁾	<u>1.6%</u>	<u>1.6%</u>	<u>1.6%</u>	<u>1.6%</u>	

(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.

(b) Comparable uses.

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

type of land use on the fee schedule. The 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 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.

(c) *Alternative impact fee calculation.*

(1) In the event an applicant believes that the cost of law enforcement facilities to serve its proposed development is less than the fee established in subsection (a), the applicant may, at its sole expense, submit an alternative fee calculation to the county pursuant to the provisions of this subsection. Such an alternative fee calculation shall be submitted 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.

If the data, information, and assumptions used by the applicant to calculate the alternative impact fee satisfy the requirements of this subsection, the alternative impact fee shall be deemed the impact fee due and owing for the proposed development. The proposed development shall be presumed to 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.

(2) The alternative impact fee calculations shall be limited to the demand component of the impact fee equation and shall be based on data, information, or assumptions contained in 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.

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

(4) The provisions of this subsection shall be 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.

(5) Any agreement proposed by an applicant pursuant to this subsection must be presented to and approved by the board of county commissioners prior to the issuance of any certificate of occupancy, temporary or permanent. Any such agreement may provide for execution by mortgagees, lien holders, 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), *Hollywood Inc. v. Broward County*, 432 So. 2d 606 (Fla. 4th DCA 1983, cert. denied, 440 So. 2d 352 (Fla. 1983); and *Home Builders and Contractors Association of Palm Beach County, Inc. 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).

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

(b) *Periodic updates.* This article shall be reviewed by the board of county commissioners at least every five (5) years. The review shall consider changes in all of the inputs to the methodology used in the impact fee study to calculate the fees, as well as potential improvements to the methodology itself. The purpose of this review is to ensure the fee charged new 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 (ee)(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.

(4) 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.

~~(e) — 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.

(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 to Administrative Regulations 4.01 and 4.02, as may be amended, upon payment of a nonrefundable processing fee. If the applicant decides to appeal the determination, the applicant shall file a 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.

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

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

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

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

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

Sec. 23-31. Credits.

(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.

(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 money placed in a trust fund account shall be deemed to be the first money taken out of that account when withdrawals have been made in accordance with section 23-30~~above~~.

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

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

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

Sec. 23-35. Economic impact determination.

The board of county commissioners does hereby determine and find, pursuant to subsection 30-21(b)(2), that sufficient information has been provided for the board of county commissioners to assess the economic impact of this article, 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 economic impact information is required in this matter. If the ongoing planning studies and periodic review reveal a detrimental

economic impact, this article shall be reviewed and revised 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*
Teresa Jacobs, County Mayor

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

By: *Katie Smith*
Deputy Clerk

