

1 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
2 ORLANDO, FLORIDA, RELATING TO IMPACT FEES;
3 AMENDING CHAPTER 56, ORLANDO CITY CODE, TO
4 ESTABLISH A PARKS IMPACT FEE; PROVIDING PURPOSE
5 AND INTENT, RULES OF CONSTRUCTION, DEFINITIONS,
6 AND THE DETERMINATION OF FEES; FURTHER
7 PROVIDING FOR ALTERNATIVE IMPACT FEE
8 CALCULATIONS, CREDITS AGAINST IMPACT FEES,
9 EXEMPTIONS, PARK BENEFIT AREAS, AND AN IMPACT
10 FEE TRUST FUND; ALSO PROVIDING FOR COLLECTION
11 PROCEDURES, FOR THE USE OF FUNDS COLLECTED, THE
12 RETURN OF CERTAIN FUNDS, PENALTIES, AND FOR
13 APPEALS OF CERTAIN DETERMINATIONS; PROVIDING
14 TECHNICAL, GRAMMATICAL, AND ORGANIZATIONAL
15 AMENDMENTS TO CHAPTER 56; PROVIDING LEGISLATIVE
16 FINDINGS, AND FOR SEVERABILITY, CODIFICATION,
17 CORRECTION OF SCRIVENER'S ERRORS, AND AN
18 EFFECTIVE DATE.

19
20 **WHEREAS**, the *City of Orlando Growth Management Plan* (the "GMP"; the GMP
21 is the city's "comprehensive plan" for purposes of the Florida Community Planning Act,
22 sections 163.3164 through 163.3217, Florida Statutes) Vision Statement provides that
23 "Orlando is fortunate to have a rich heritage, grounded by a 100-year history of
24 community planning that dates back to the City Beautiful movement."; and
25

26 **WHEREAS**, the GMP Vision Statement further provides that "[a]s 'The City
27 Beautiful', Orlando's vision is defined by a focus on its amenities. Key elements of that
28 vision are strong urban design; historic preservation; the availability and maintenance of
29 parks, recreation and open space...;" and
30

31 **WHEREAS**, the GMP contains a Recreation and Open Space Element (the
32 "Recreation Element") that provides the city's goals, objectives, and policies relating to
33 parks, recreation, and open space, and a Capital Improvements Element (the "Capital
34 Improvements Element") that seeks to "provide and maintain, in an efficient and
35 balanced manner, public facilities and services which protect the public health, safety,
36 and welfare of its citizens, concurrent with the impacts of new development..."; and
37

38 **WHEREAS**, Goal 1 of the Recreation Element is "[t]o provide for the recreation,
39 and open space needs of all of the city's current and future citizens."; and
40

41 **WHEREAS**, Objective 1.1 of the Recreation Element provides that "[t]he City of
42 Orlando shall ensure that an adequate amount of park land and open space land is
43 available to the citizens of Orlando...;" and
44

45 **WHEREAS**, Policy 1.1.1 of the Recreation Element provides a city-wide park
46 acreage level of service standard of 3.25 acres of combined "Community Park" and
47 "Neighborhood Park" per 1,000 population; and
48

49 **WHEREAS**, Policy 1.1.1 of the Recreation Element also provides a level of
50 service standard for each Community Park and Neighborhood Park service area, with
51 each Community Park service area standard being 1.3 acres of park per 1,000

ORDINANCE NO. 2016-65

52 population, and the Neighborhood Park service area standard being 0.75 acres of park
53 per 1,000 population; and

54
55 **WHEREAS**, for planning purposes, Community Parks serve a population of up to
56 40,000 with a prototypical size of 15 acres and Neighborhood Parks serve a population
57 of up to 10,000 with a prototypical size of 5 acres; and

58
59 **WHEREAS**, Objective 1.2 of the Recreation Element provides that “the City of
60 Orlando shall require, through the Land Development Code, that both private and public
61 entities and agencies provide adequate green space.”; and

62
63 **WHEREAS**, Objective 1.3 of the Recreation Element provides that “[b]ecause the
64 city’s park requirements may change in the future due to unforeseen growth of future
65 annexations, the City of Orlando shall continue to monitor levels of service for parks and,
66 if necessary, shall identify and implement alternative funding mechanisms and programs
67 to provide for parks.”; and

68
69 **WHEREAS**, Objective 1.2 of the Capital Improvements Element provides that
70 “the city shall utilize the Level of Service (LOS) standards identified in [the GMP] to
71 evaluate and permit new development in order to maintain adopted level of service
72 standards for existing and future needs.”; and

73
74 **WHEREAS**, Policy 1.2.1 of the Capital Improvements Element provides that
75 “[t]he LOS standards adopted for each of the following public facilities and services shall
76 apply to new development: roads, schools, wastewater, [and] parks....”; and

77
78 **WHEREAS**, Policy 2.2.19 of the Capital Improvements Element provides that
79 “[t]he parks and recreation LOS standards shall be applied through the application of the
80 following performance standards to ensure that parks and recreation facilities are in
81 place when the impacts of development occur:

- 82
- 83 1. Adequate park capacity exists to serve the residential
84 development; or
 - 85
 - 86 2. The necessary capital improvements are guaranteed in a
87 development agreement which provides for the actual construction
88 to begin within one year from the issuance of a development
89 permit; or
 - 90
 - 91 3. The necessary capital improvements are programmed in the
92 Capital Improvements Element for actual construction to begin
93 within one year from the issuance of a development permit.”; and
 - 94

95 **WHEREAS**, at subsection 163.31801, Florida Statutes, the Florida Legislature
96 finds that “impact fees are an important source of revenue for a local government to use
97 in funding the infrastructure necessitated by new growth,” and that “impact fees are an
98 outgrowth of the home rule power of a local government to provide certain services
99 within its jurisdiction.”; and

100
101 **WHEREAS**, the City Council of the City of Orlando, Florida (the “Orlando City
102 Council”), hereby finds that new residential development in the city requires additional

ORDINANCE NO. 2016-65

103 parks and recreation facilities for operation by the city's Families, Parks, and Recreation
104 Department (the "department"); and

105
106 **WHEREAS**, the Orlando City Council hereby finds that, as set forth in the GMP,
107 new development should be permitted to occur only where an adequate level of parks
108 and recreation facilities can be provided; and

109
110 **WHEREAS**, the Orlando City Council hereby finds that new residential
111 development should pay a portion of the overall costs related to the additional parks and
112 recreation facilities needed to accommodate such new development; and

113
114 **WHEREAS**, the Orlando City Council hereby finds that it is the purpose of this
115 ordinance to ensure the provision of an adequate level of parks and recreation facilities
116 throughout the city so that new residential development may occur in a manner
117 consistent with the established level of service; and

118
119 **WHEREAS**, the Orlando City Council hereby finds that it is the purpose of this
120 ordinance to require new residential development to bear a portion of the overall capital
121 costs related to parks and recreation facilities made necessary by such new
122 development; and

123
124 **WHEREAS**, the Orlando City Council hereby finds that impact fees provide a
125 reasonable and fair method of regulating new residential development to ensure that
126 such new development pays a portion of the capital costs of parks and recreation
127 facilities necessary to accommodate such new development; and

128
129 **WHEREAS**, the Orlando City Council hereby finds that while the department
130 operates parks and recreation facilities throughout the city, and that citizens of Orlando
131 actually use and benefit from parks and recreation facilities no matter where they are
132 located in the city, this ordinance will restrict the capital improvements that are funded
133 with impact fee revenue to designated geographic areas (to be known as "park benefit
134 areas") in which the impact fee revenue was derived, the purpose of such policy being to
135 ensure that new residential development enjoys a very direct benefit from the
136 expenditure of impact fee revenues derived from that development; and

137
138 **WHEREAS**, the Orlando City Council hereby finds that (1) the provision of parks
139 and recreational facilities is an important government good or service, (2) that all new
140 residential development creates an impact upon the cost of providing parks and
141 recreational facilities, and that (3) the cost of providing parks and recreational facilities
142 varies depending on the type of residential development, whether detached residential
143 development (sometimes referred to as "single-family residential development") or
144 attached residential development (sometimes referred to as "multifamily residential
145 development"); and

146
147 **WHEREAS**, the Orlando City Council hereby finds that the additional impact
148 imposed by new residential development upon the capital costs of providing parks and
149 recreational facilities occurs at the time that the new development actually occurs; and

150
151 **WHEREAS**, the Orlando City Council hereby finds that (1) the provisions of this
152 ordinance relating to adequate parks and recreational facilities, (2) the additional parks
153 and recreational facilities needed for new residential development, (3) the capital costs

154 relating to those additional parks and recreational facilities needed to serve the new
155 residential development, and (4) the impact fees necessitated by such capital costs, are
156 all based upon and supported by the analysis, findings, and recommendations of the
157 *City of Orlando Families, Parks and Recreation Vision Plan* dated January 2010 (the
158 "Parks Vision Plan"), and the *City of Orlando Families, Parks and Recreation Impact Fee*
159 *Study* dated August 2014 (the "Parks Impact Fee Study"); and

160
161 **WHEREAS**, the Orlando City Council hereby approves, adopts, and incorporates
162 into this ordinance the Parks Vision Plan (being **Exhibit A** to this ordinance) and the
163 Parks Impact Fee Study (being **Exhibit B** to this ordinance); and

164
165 **WHEREAS**, the Orlando City Council hereby finds that the Parks Impact Fee
166 Study is based on the most recent and localized data; and

167
168 **WHEREAS**, the Orlando City Council hereby finds that maintaining the city's
169 currently existing level of service for parks is essential to and in the best interests of the
170 public health, safety, and general welfare of the citizens of the city; and

171
172 **WHEREAS**, the Orlando City Council hereby establishes the city's currently
173 existing service level of 12.66 acres of park per 1,000 population for the purpose of
174 determining the amount of the impact fee established by this ordinance and that for the
175 purpose of determining the amount of the impact fee, the benefit to the impact fee payer
176 is equal to or greater than the total cost per new resident to provide park and recreation
177 facilities to maintain this existing level of service; and

178
179 **WHEREAS**, the intent of the Orlando City Council is that impact fees imposed
180 pursuant to this ordinance be used to pay only for the capital costs associated with the
181 additional parks and recreation facilities required for new residential development in the
182 city; and

183
184 **WHEREAS**, the Orlando City Council hereby finds, based on the Parks Impact
185 Fee Study, that a reasonable relationship, or rational nexus, exists between the need for
186 additional parks and recreation facilities and the growth in population generated by new
187 residential development; and

188
189 **WHEREAS**, the Orlando City Council hereby finds, based on the Parks Impact
190 Fee Study, that a reasonable relationship, or rational nexus, exists between the
191 expenditure of the funds collected pursuant to this ordinance and the benefits of new
192 parks and recreation facilities accruing to new residential development; and

193
194
195 **NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY**
196 **OF ORLANDO, FLORIDA, AS FOLLOWS:**

197
198 **SECTION 1. CH. 56, AMENDED.** Chapter 56, Code of the City of Orlando,
199 Florida, is hereby amended as follows:

200
201 **CHAPTER 56 – TRANSPORTATION IMPACT FEES**

202
203 **Part I – Transportation Impact Fee**

204

205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254

Sec. 56.01. - Short title, authority, and applicability.

~~(a)A.~~ This ~~p~~Part of Chapter 56 (~~This Chapter~~) shall be known and may be cited as the "City of Orlando Transportation Impact Fee Ordinance~~Chapter~~."

~~(b)B.~~ The planning for new and expanded roads and other transportation improvements needed to serve new growth and development that generate additional traffic and the implementation of these plans through the comprehensive planning process are the responsibility of the cCity under ~~Florida Statutes Ch. 163 and Florida Statutes Ch. 166~~ Chapters 163 and 166, Florida Statutes, various special acts relating to the power of the City of Orlando undertaking zoning, planning, and development regulation~~activities~~, and is in the best interest of the health, safety, and welfare of the citizens of the cCity.

Sec. 56.02. - Purpose and intent and Purpose.

~~(a)A.~~ This ~~p~~Part of the Chapter is intended to be consistent with the principles for allocating a fair share of the cost of new public facilities to new users as established by the Florida Supreme Court and the Florida Legislature. The City of Orlando has determined and recognized through adoption of a Comprehensive Plan that future development and growth within the cCity will necessitate extensive transportation improvements. In order to finance the necessary improvements, several methods of financing will be utilized, including the requirement that development activity generating new transportation demands pay a transportation impact fee which includes multi-modal transportation applications.

~~(b)B.~~ The implementation of a regulatory program that requires new development to pay a "Transportation Impact Fee" that does not exceed a pro rata share of the reasonably anticipated expansion costs of new and expanded transportation improvements needed to serve new growth and development is the responsibility of the cCity in order to carry out the transportation~~traffic circulation~~ element of its Comprehensive Plan, as amended and adopted under the Florida Community Planning Act~~Florida Statutes § 163.3161 et seq.~~, and is in the best interest of the health, safety, and welfare of the citizens of the City of Orlando.

~~(c)C.~~ The purpose of this ~~part~~Chapter is to enable the City of Orlando to allow growth and development to proceed in compliance with the adopted Growth Management Plan, and to regulate growth and development so as to require growth and development to share in the burdens of growth by paying its pro rata share for the reasonably anticipated costs of needed transportation improvements.

~~(d)D.~~ It is not the purpose of this ~~part~~Chapter to collect fees from growth and development in excess of the cost of the reasonably anticipated transportation improvements needed to serve the new growth and development. It is specifically acknowledged that this ~~part~~Chapter has approached the problem of determining the transportation impact fee in a conservative and reasonable manner. This ~~part~~Chapter will only partially recoup the governmental expenditures associated with growth. Existing development will still be required to pay a fair share of the cost of needed transportation improvements.

255 ~~(e)E.~~ The technical data, findings, and conclusions herein are based on the
 256 ~~Comprehensive~~ Growth Management Plan, as amended, of the City of Orlando and
 257 in part on the following studies and reports: City of Orlando Multi-modal
 258 Transportation Impact Fee Study dated July 25, 2012, and the associated studies
 259 and documents as referenced in that sStudy; current standardized ITE Trip
 260 Generation Report: current Florida Department of Transportation, Transportation
 261 Costs Handbook; current standardized Florida Department of Transportation "per
 262 lane mile standard construction costs" calculation; ~~;~~ and the City of Orlando Growth
 263 Management ~~Plan~~ program comprehensive planning reports and land development
 264 regulations as adopted by the Orlando City Council.

265
 266 **Sec. 56.03. –Rules of cConstruction.**
 267

268 For the purposes of administration and enforcement of this Ordinance, unless
 269 otherwise stated in this Chapter, the following rules of construction shall apply:
 270

- 271 A. In case of any difference of meaning or implication between the text of this
 272 Chapter and any caption, illustration, summary table or illustrative table, the text
 273 shall control.
- 274 B. The word "shall" is always mandatory and not discretionary; the word "may" is
 275 permissive.
- 276 C. Words used in the present tense shall include the future and words used in the
 277 singular number shall include the plural and the plural the singular, unless the
 278 context clearly indicates the contrary.
- 279 D. The word "person" includes an individual, a corporation, a partnership, an
 280 incorporated association, or any other similar entity.
- 281 E. Unless the context clearly indicates the contrary, where a regulation involves
 282 two (2) or more items, conditions, provisions, or events connected by the
 283 conjunction "and," "or" or "either... or," the conjunction shall be interpreted as
 284 follows:
 285 (1) "And" indicates that all the connected terms, conditions, provisions or
 286 events shall apply.
 287 (2) "Or" indicates that the connected items, conditions, provisions or events
 288 may apply singly or in any combination.
 289 (3) "Either... or" indicates that the connected items, conditions, provisions or
 290 events shall apply singly but not in combination.
- 291 F. The word "includes" shall not limit a term to the specific example but is intended
 292 to extend its meaning to all other instances or circumstances of like kind or
 293 character.
- 294 G. Where a road right-of-way is used to define benefit area boundaries, that
 295 portion of the road right-of-way demarcating the boundary may be considered
 296 as part of either or both benefit areas it bounds.
 297
 298
 299
 300
 301
 302
 303
 304
 305

306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355

Sec. 56.04. - Definitions.

Access Improvements: Transportation Improvements necessary to provide safe and adequate ingress and egress and for efficient traffic operations. Access improvements include but are not limited to the following:

- (a) right-of-way and easements;
- (b) left and right turn lanes;
- (c) acceleration and deceleration lanes;
- (d) traffic control and signal devices, signage, and markings; and
- (e) drainage and utilities; and
- (f) transit bus pullouts.

Accessory Building, Structure or Use: A detached, subordinate building, structure or use, the use of which is clearly incidental to and serves the principal building or use and is located on the same development site as that of the principal building or use. See Chapter 58, Part 5, City Code.

Active Uses: For purposes of Transit Oriented Developments. ground floor criteria include (i) any eating and drinking establishment with 51% or greater food sales as a portion of gross sales, and (II) personal service uses, public benefit uses and retail uses that require a local business tax receipt. To qualify under this definition. an active use must also be open to the general public with published operating hours exceeding twenty-five (25) hours per week. All active uses must be permitted uses within the zoning district in which the active use is permitted. Active use areas shall only include air-conditioned/heated space and shall not include building lobbies, common space areas and other such space.

Applicant: Any person who applies for a development permit for land development.

Arterials: Arterials connect limited access facilities and other roads with partial access control facilities to form a continuous network. Arterials provide mobility around and through urban and community cores. The intent of an arterial is to provide movement as opposed to access to the adjacent properties, and does not include grade separated-limited access facilities, such as expressways and interstate highways.

Arterial Roads: A classification of roads which primarily functions to accommodate the movement of relatively large traffic volumes for relatively long distances at relatively high speeds. Land access, when provided, is subservient to the movement function. This classification includes all roads which function above the level of a collector road.

Average Trip Length: The average length in miles of trips for each major land use category, adjusted to reflect the travel characteristics in the Orlando GMP Study Area.

ORDINANCE NO. 2016-65

356 *Building:* Any permanent structures designed or built for the support, shelter or
357 protection of persons, animals, chattels, goods or property of any kind.

358
359 *Building Permit:* Any building or construction permit required under the Orlando
360 Building Code (Chapter 13 of the City Code).

361
362 *Capacity; Capacity Per Lane:* The maximum number of vehicles for a given time
363 period which a typical new lane can safely and efficiently carry at a specified level of
364 service. For the purpose of this Chapter, the capacity of a typical new lane shall mean
365 8,000 vehicles per day per through lane at Level of Service "D" and 10,000 vehicles per
366 day per through lane at Level of Service "E."

367
368 *Capacity Per Lane Mile:* The product of the capacity per lane times one lane mile.
369 For the purpose of this Chapter, the capacity per lane mile of a typical new lane shall
370 mean 8,000 vehicles per day per through lane per mile at Level of Service "D" and
371 10,000 vehicles per day per through lane per mile at Level of Service "E."

372
373 *Collector Roads:* Collectors provide for movement between local streets and the
374 arterial network. Collectors serve residential, commercial and industrial areas, providing
375 continuity between local roads and the thoroughfare system. These facilities balance the
376 need for individual lot access and through travel.

377
378 *Complete Application:* An application for development permit that contains, at a
379 minimum, each document and all information required by City Code for said application.

380
381 *Construction:* Activity on a development site pursuant to a valid and lawfully issued
382 development permit, including site preparation, excavation.

383
384 *Development:* See Land Development.

385
386 *Development Permit:* Includes any building permit, having the effect of permitting
387 the construction or alteration of any building or structure or other vertical improvement
388 on the land.

389
390 *Development Site:* The property under consideration for development at the time of
391 application for a development permit.

392
393 *Diverted Traffic; Passer-by Traffic:* Traffic that is already on the road network which
394 is attracted by the land use and which may be transferred from another route.

395
396 *Encumbered:* Funds committed in a capital improvements program for a specified
397 improvement on a specified time schedule.

398
399 *Expansion:* New Transportation Improvements capacity enhancements which
400 include but are not limited to extensions, widenings, intersection improvements,
401 upgrading signalization and improving pavement conditions.

402
403 *External Trip:* Any trip which has either its origin or destination at the development
404 site.

405

ORDINANCE NO. 2016-65

406 *Gross Leasable Area:* For purposes of the Chapter, gross leasable area shall be the
407 total gross square footage of the land use less ten (10) percent.
408

409 *Housing, Low Income: Owner-occupied housing:* As defined by Resolution of the
410 City of Orlando, Florida, adopting an affordable housing certification process and
411 establishing an effective date, adopted on February 8, 1993, Documentary No. 25367-
412 1A, and any amendments thereto.
413

414 *Housing, Low Income: Tenant-occupied housing:* As defined by applicable
415 governmental regulations and approval of the Housing and Community Development
416 Department of the City of Orlando.
417

418 *Impact:* The negative effect of additional vehicles and person miles of travel on a
419 roadway segment.
420

421 *Internal Trip:* Any trip which has both its origin and destination within the
422 development site.
423

424 *Land Development:* The construction or alteration of any building or structure, or
425 other vertical improvement on the land.
426

427 *Land Use:* Any principal or accessory building, structure or use located on the
428 development site.
429

430 *Land Use, Traffic Generating:* Proposed land use that attracts or produces vehicular
431 trip(s) and Person Miles of Travel over and above that produced by the existing land
432 use. See Transportation Impact Fee Rate Schedule (Exhibit A) for Traffic Generating
433 Land Use Categories.
434

435 *Level of Service "D":* A condition of road performance where traffic density is high
436 but tolerable. Fluctuations in traffic volume may cause reductions in operating speeds.
437 Drivers have little freedom to maneuver. However, traffic flows approach unstable
438 conditions in some instances.
439

440 *Level of Service "E":* This level of service represents traffic operation near the
441 roadway capacity or maximum service volume. Vehicles flow at unstable conditions.
442 Stop-and-go situations may happen. In freeways or limited access facilities, speeds are
443 near thirty (30) miles per hour and traffic density is high.
444

445 *Local Roads:* Local roads provide direct access to abutting properties. Local roads
446 accommodate traffic originating in or traveling to properties within a neighborhood,
447 commercial or industrial development.
448

449 *Major Road Network:* The existing and planned interconnecting system of public
450 roads classified as limited access facilities, arterials, and collectors, as established in the
451 GMP Transportation Element.
452

453 *Marginal Cost:* The additional cost incurred to provide a non-site related
454 improvement over and above that which would be necessary to only provide the site-
455 related improvement needed to serve the land use.
456

457 *Multi-modal Transportation:* The transportation system that includes the Major Road
 458 Network, sidewalk and bicycle facilities within the public right-of-way, and public
 459 transportation vehicles and facilities (bus stops, shelters, benches and transfer stations,
 460 excluding rail) within the City of Orlando.

461
 462 *Non-Site Related Improvements:* Transportation improvements, including rights-of-
 463 way, which are necessary to provide safe and adequate travel service for the movement
 464 of vehicular traffic and person miles of travel, including multimodal transportation
 465 facilities, and which are in excess of or in addition to site related transportation
 466 improvements. Non-site related improvements may include on-site or off-site
 467 improvements to the transportation improvements network. The Transportation Impact
 468 Fee formula contained in this Chapter is designed to calculate the costs inherent in the
 469 construction of non-site related at-grade improvements to the transportation
 470 improvements network.

471
 472 *Off-Site Improvements:* Transportation improvements located outside of the
 473 boundaries of the development site which are necessary to provide safe and adequate
 474 travel service for vehicular traffic.

475
 476 *On-Site Improvements:* Transportation improvements located within the boundaries
 477 of the development site which are necessary to provide safe and adequate travel service
 478 for vehicular traffic.

479
 480 *Person Miles of Travel:* The person miles of travel represent daily travel of all
 481 persons visiting a given land use using all modes of transportation (auto, transit, bicycle,
 482 pedestrian). It is calculated based on the dominant travel mode of automobile and by
 483 applying a person per vehicle conversion factor through the following equation:

484
 485
$$\text{Person Miles of Travel (PMT)} = \text{Vehicle Miles of Travel (VMT)} \times \text{Conversion Factor}$$

 486 (Person/Vehicle)

487
 488 *Transportation Impact Fee; Impact Assessment Fee:* The fee required to be paid in
 489 accordance with this Chapter.

490
 491 *Transportation Improvements:* A physical asset, constructed or purchased, that is
 492 necessary to provide safe and adequate travel service for vehicular traffic, and transit
 493 service. The planning, acquisition, expansion or construction of transportation projects
 494 includes transportation planning, preliminary engineering, engineering design studies,
 495 land surveys, right-of-way acquisition, engineering, permitting and construction of all the
 496 necessary features for any transportation project including, but not limited to:

- 497
 498 (a) construction of the thru lanes,
 499
 500 (b) construction of turn lanes,
 501
 502 (c) construction of bridges,
 503
 504 (d) construction of drainage facilities in conjunction with roadway construction,
 505
 506 (e) purchase and installation of traffic signalization, signage and markings,
 507

- 508 (f) construction of curbs, medians and shoulders,
- 509
- 510 (g) relocating utilities to accommodate roadway construction,
- 511
- 512 (h) mass transit and other multimodal transportation projects,
- 513
- 514 (i) pedestrian and bicycle improvements that are integrally related to transportation
- 515 improvements and serve to separate pedestrians and bicyclists from vehicles,
- 516 thus enhancing the carrying capacity of the transportation system, and
- 517
- 518 (j) other improvements, as determined by the City's Transportation Planning
- 519 Division Manager, that add to the pedestrian or vehicle carrying capacity of the
- 520 transportation system.
- 521

522 *Road Network:* (See Major Road Network.)

523

524 *Site-Related Improvements:* Transportation improvements, including rights-of-way,

525 which are necessary to provide safe and adequate travel service for the movement of

526 vehicular traffic, including multimodal transportation facilities that reduce the amount of

527 vehicular traffic and person miles of travel, between the traffic-generating land uses

528 within the development site, between the development site and the major road network

529 and access improvements. Site- related improvements may include on-site or off-site

530 improvements to the transportation improvements network as necessary to access the

531 site or to connect the site to the closest point in the major road network. The

532 Transportation Impact Fee formula contained in this Chapter (gross square footage ×

533 90% × 1,000 × appropriate fee rate), which does not apply to land uses with a per unit

534 fee basis, is not intended to assess an amount that constitutes an approximation of the

535 costs to construct site related transportation improvements, therefore, an assessment for

536 or the construction of site related transportation improvements shall be considered as an

537 addition to the assessment calculated pursuant to the terms of this Chapter.

538

539 *Square Feet:* As referred to in the Transportation Impact Fee Rate Schedule (Exhibit

540 "A"), means total gross leasable square footage. Calculable square feet shall include

541 non-roofed areas which are contemplated to be used or leased in connection with the

542 land use (e.g. outdoor garden shop areas). These are areas integrally related and

543 customarily found in association with the land use including sales areas and stock areas

544 located on the same building site.

545

546 *Structure:* Anything constructed, erected or placed on the development site, the use

547 of which requires more or less permanent location on or in the ground or attached to

548 something having a permanent location on or in the ground.

549

550 *Traffic-Generating Land Use:* See Land Use, Traffic Generating.

551

552 *Transit Oriented Development (TOD):* A development site, as that term is defined in

553 this Section, any portion of which is located within ¼-mile walking distance along a

554 designated roadway from a premium transit stop or station (SunRail or LYMMO) (see

555 Exhibit "C"). Walking distance shall be measured from the development site's nearest

556 property line to a premium transit stop or station utilizing a clear path of travel at least

557 five (5) foot in width, located on a separate surface from the roadway, such as a

558 designated sidewalk or multi-use trail. In calculating the distance for purposes of TOD,

559 temporary obstructions to the path of travel arising from construction projects shall be
560 ignored so long as the obstructed path of travel shall be restored upon completion of the
561 construction project.

562
563 *Trip:* A one-way movement of vehicular travel or Person Miles of Travel from an
564 origin (one trip end) to a destination (the other trip end). For the purposes of this
565 Chapter, trip shall have the meaning which it has in commonly accepted traffic
566 engineering practice and which is substantially the same as that definition in the
567 previous sentence.

568
569 *Trip Generation:* The attraction or production of trips caused by and associated with
570 a given type or classification of land use category (see Exhibit "A").

571
572 *Trip Rate; Trip Generation Rate:* The average number of vehicle trip ends (one-way
573 trips) which can be attributed to a specific type of land use per unit of development per
574 day as documented in the current ITE Trip Generation Report, and as used in commonly
575 accepted engineering practice.

576
577 *Unit of Development:* The standard incremental measure of land development for a
578 specific type of land use upon which the trip generation rate is based.

579
580 *Vehicle Miles of Travel:* The product of the average trip length times the number of
581 trips generated by a specific type of land use or its equivalent.

582
583 Sec. 56.05. - Limitations on Issuance of Development Permits.

584
585 Any person who applies for the issuance of a development permit for a traffic
586 generating land use shall be required to pay a Transportation Impact Fee in the manner
587 and amount set forth herein.

588
589 Except as provided elsewhere in this Chapter, no development permit for any traffic
590 generating land use requiring payment of a Transportation Impact Fee pursuant to this
591 Chapter shall be issued unless and until the transportation impact fee hereby required
592 has been paid.

593
594 Except as provided elsewhere in the Chapter, no person shall operate from, conduct
595 business, reside, or utilize any traffic generating land use unless and until the
596 Transportation Impact Fee required by this Chapter has been paid and a development
597 permit has been issued.

598
599 A development permit for any traffic generating use, classified as commercial or
600 industrial under City Code and requiring payment of a Transportation Impact Fee
601 pursuant to this Chapter, may be issued prior to the full payment of the applicable
602 Transportation Impact Fee under the following condition: No later than ten (10) calendar
603 days after submittal of the building permit application for the traffic generating use, the
604 Applicant may also apply to the Transportation Impact Fee Coordinator for authority to
605 participate in an installment plan. Upon approval of the application, the Applicant shall
606 pay fifty percent (50%) of the applicable Transportation Impact Fee prior to issuance of a
607 development permit for the subject use or any portion thereof, and shall pay the
608 remaining fifty percent (50%) prior to the City's issuance of a Certificate of Occupancy
609 for said use or any portion thereof.

610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659

Sec. 56.06. - Determination of Transportation Impact Fees.

- A. The Transportation Impact Fee for any traffic generating land use shall be determined either by using the transportation impact fee rate schedule (Exhibit "A") set forth in Section 56.07 of this Chapter or by using the alternative method of calculation set forth in Section 56.08 of this Chapter.
- B. Any applicant may propose to enter into a Transportation Impact Fee agreement with the City as set forth in Section 56.10 of this Chapter in order to establish just and equitable Transportation Impact Fees or their equivalent which are appropriate to the specific circumstances of the traffic generating land use category.
- C. When an application for a development permit has been made includes two or more land uses in any combination, including two or more land uses within a building or structure, the total Transportation Impact Fee assessment shall be the sum of the products, as calculated above, for each land use, unless otherwise provided for in this Chapter.
- D. Except as provided in Section 56.15(H), in the case of a change, redevelopment, or modification of a land use which requires the issuance of a development permit, the Transportation Impact Fee shall be based upon the net increase in the Transportation Impact Fee amount for the new or proposed land use as compared to the Transportation Impact Fee amount based on the existing or last previous land use.
- E. In the case of a demolition or termination of an existing use or structure, if the demolition or termination of the existing use or structure occurred less than ten (10) years prior to the application for a development permit, the Transportation Impact Fee for future redevelopment shall be based upon the net increase in the Transportation Impact Fee amount for the new or proposed land use as compared to a Transportation Impact Fee amount, calculated at current rates based on the highest intensity actual active or previous land use since its original occupancy. Any excess transportation impact fee amount, as calculated in this sub paragraph, for the prior use shall not be transferable to another location.
- F. In the case of a relocation of a use, a Transportation Impact Fee shall be assessed to the relocated use at its new location as generally provided in this Section. Redevelopment of the old location from which the use was removed will be assessed a Transportation Impact Fee as provided in subparagraphs D, and E, as applicable.
- G. In order to take advantage of subparagraphs D, E, or F (above) and pay Transportation Impact Fees only for the net increase in the traffic-generating land use category, the applicant shall provide reasonably sufficient evidence that a previous land use had been actively maintained on the site prior to the date of application for the development permit. Such evidence may include proof of utility records, records for the use sought to be shown, or other documentation. Occupational license issuance is not of itself reasonably sufficient evidence.

ORDINANCE NO. 2016-65

- 660 H. Any claim of existing or previous use under subparagraphs D, E, or F (above) must
661 be made no later than the time of application for a development permit. Any claim
662 not so made shall be deemed waived and invalid.
663
- 664 I. When an application for a development permit has been submitted for a land use,
665 which:
666
- 667 (1) includes ground floor retail as an auxiliary or secondary use within a mixed-use
668 building located in an AC-3A/T zoning district; and
669
 - 670 (2) the ground floor retail use was "required" by the City as a condition of
671 development approval in order to achieve Growth Management Plan objectives;
672 and
673
 - 674 (3) the primary use, more than sixty-six percent (66%) of the total floor area, of the
675 mixed-use building is office or multi-family residential; and
676
 - 677 (4) then to the extent that the ground floor retail use is required by the City as a
678 condition of development approval, the Transportation Impact Fee assessment
679 for the required retail use is calculated by multiplying the Discounted Impact
680 Fee Rate per 1,000 square feet for the primary land use category by the floor
681 area of the required retail use.
682
- 683 J. In the event that an applicant for a development permit or the City of Orlando
684 contends that the land use category for which the development permit is proposed is
685 not within the above categories or fits within a different category, then the
686 Transportation Impact Fee Coordinator, or his/her designee shall, after consultation
687 with the Transportation Planning Division Manager, make a determination as to the
688 appropriate land use designation which is consistent with current practices to add
689 land use categories of general applicability to the Transportation Impact Fee Rate
690 Schedule (Exhibit "A") following submission to City Council. In addition, either the
691 City or the applicant can propose actual studies or surveys in order to calculate the
692 most appropriate fee rate. Any such determination may be appealed, consistent with
693 Section 56.23, herein. For additional information see Section 56.08, Alternative
694 Transportation Impact Fee Calculation.
695

696 Sec. 56.07. - Transportation Impact Fee Rate Schedule.
697

- 698 A. Any person may determine their Transportation Impact Fee by using the following
699 fee rate schedule. The fee rate schedule is presented for the convenience of the
700 public and may be used in lieu of the alternative method of calculation set forth in
701 Section 56.08 of this Chapter. The fee rates have been calculated using the method
702 of calculation presented in Section 56.08 using recognized accepted trip generation
703 rates and/or Person Miles of Travel based upon acceptable national averages. For
704 the convenience of the public, the fee rates which are based on trip generation
705 and/or Person Miles of Travel have been converted to dollar amounts per unit of
706 development, i.e., per dwelling unit, per 1,000 square feet, per room, etc.,
707 depending upon the type or classification of land use.
708

709 Transportation Impact Fee Rate Schedule: See Composite Exhibit "A." The
710 Transportation Impact Fee Rate Schedule shall be effective as provided by law, and

ORDINANCE NO. 2016-65

711 shall be based on the most recent and localized data. Resolutions establishing transit
712 service districts will be adopted by City Council.

713
714 B. The total transportation impact fee for a specified type of land use is calculated by
715 multiplying the Discounted Impact Fee Rate (from the definition of Site Related
716 Improvements in Section 56.04) for the specified type of land use by the number of
717 units of development of the specified type of the land use.

718
719 C. To account, in part, for the effects of inflation on the costs of right-of-way, design
720 and road construction, the City's Transportation Planning Division shall index the
721 transportation impact fee rate annually, subject to City Council's approval as
722 described herein, to be applied beginning January 1, 2011, and January 1st of each
723 year thereafter, including accrued indexing amounts, to reflect either (i) the
724 published costs for these items in the most recent version of the Consumer Price
725 Index or (ii) three percent (3%), whichever is less. The City's Transportation
726 Planning Division Manager shall confirm the reasonableness of the proposed index
727 to the rates. Based on the reference data and methodology contained in this
728 subsection, the City's Transportation Planning Division shall submit a request for the
729 proposed indexing of the Transportation Impact Fee as a separate item in the
730 Division's annual budget submittal to City Council. If City Council approves the
731 proposed indexing of the impact fee rate as a part of the Division's budget submittal,
732 the City's Transportation Planning Division Manager shall submit an ordinance for
733 City Council approval, adopting the new impact fee rate(s). If City Council does not
734 adopt the proposed indexing of impact fee rate(s), the impact fee rate for the
735 previous year remains in effect.

736
737 Sec. 56.08. - Alternative Impact Fee Calculation.

738
739 A. In the event an applicant believes that the transportation impacts of his land use on
740 the Transportation Improvements network will be less than standards in this
741 Chapter, the applicant may submit an Alternative Transportation Impact Fee
742 Calculation application, including a supporting report, to the Transportation Planning
743 Division Manager, or his designee, pursuant to the provisions of this Section. If the
744 Transportation Planning Division Manager, or his designee, finds that the data,
745 information and assumptions used by the applicant to calculate the alternative
746 impact fee satisfy the requirements of this Section, the Alternative Transportation
747 Impact Fee shall be deemed the Transportation Impact Fee due and owing for the
748 proposed land use. Prior to submitting an application herein, the applicant shall
749 meet with the Transportation Impact Fee Coordinator to establish the methodology
750 to be utilized in the supporting report.

751
752 B. Alternative Transportation Impact Fee Calculation. The alternative impact fee shall
753 be calculated by use of the following formulas:

754
755
$$\text{Net Multi-Modal Fee} = \text{TMMC} - \text{RC}$$

756
$$\text{TMMC} = [(\text{TR} \times \text{ATL} \times \text{NT})/2] \times [(1-\text{ITDF}) \times \text{PTF} \times \$\text{pPM}]$$

757
$$\text{RC} = [(\text{TR} \times \text{TTL} \times \text{NT})/2] \times 365 \times [\$pG / \text{FE}] \times \text{PV}$$

758 Where:

759
760
$$\text{TMMC} = \text{Total Multi-Modal Cost (\$)}$$

761
$$\text{TR} = \text{Average Daily Trip Generation Rate (vehicle trips per day)}$$

ORDINANCE NO. 2016-65

- 762 ATL = Assessable Trip Length (miles)
- 763 NT = Percentage of New Trips (%)
- 764 ITDF = Interstate/Toll Facility Discount Factor (%)
- 765 PTF = Person Trip Factor (ratio of vehicle-miles to person-miles, no units)
- 766 \$pPM = Cost per Person Mile (\$)
- 767 RC = Revenue Credit (\$)
- 768 \$pG = Cost per Gallon (gas tax used for capital improvements, \$/gal)
- 769 FE = Fuel Efficiency (average of all vehicles, mpg)
- 770 PV = Present Value (uniform series of cash flows, no units)
- 771

772 Note: Constant "2" is used to assign one end of each trip to the origination point
773 and the other end to the destination point to avoid double counting of trips.
774 Constant "365" is used to represent number of days in a typical year.
775

776 The Standard Multi-Modal Transportation Impact Fee equation (noted above) shall
777 also be used to calculate any Alternate Impact Fee under this section. The applicant can
778 submit supporting documentation to allow the use of specific alternative values for one
779 or more of five (5) of the factors included in the standard equation. The Trip Rate (TR),
780 Assessable Trip Length (ATL), and % of New Trips (NT) may be altered for an
781 Alternative Impact Fee study with appropriate justification. Other factors used in the
782 above equation are set by ordinance and indexed to allow for adjustments over time.
783 Therefore, these factors are not eligible for alteration via the Alternative Impact Fee
784 process. For the standard Impact Fee tables, Assessable Trip Length includes the
785 distance traveled to or from a site on the entire classified roadway network, regardless of
786 jurisdiction. The Interstate/Toll Facility Discount Factor accounts for those portions of
787 those trips that occur on limited access facilities. A similar methodology shall be used
788 when either of these factors are to be considered for modification for an Alternative
789 Impact Fee.
790

791 Policy Discount Factors adopted by Council and applied to the rate calculated under
792 the Standard Multi-Modal Transportation Impact Fee equation are generally not
793 applicable to Alternative Impact Fee calculations, unless expressly deemed so at the
794 time of Council action.
795

796 C. At the pre-application meeting, the applicant shall submit a list of the specific factors
797 from the above equation for which the applicant intends to provide alternative
798 values, the proposed source of supporting data to justify the use of each alternative
799 value, and the procedures and methodology that will be used to collect local
800 supporting data. The alternative transportation impact fee calculations shall be
801 based on data, information or assumptions obtained for comparable local land uses
802 or from independent sources, provided that:

- 803
- 804 (1) The comparable local land use, is based on actual studies or surveys
805 conducted in the Orlando Urban Area, or with the specific approval of the
806 Transportation Planning Division Manager, or his designee, in other urban
807 areas and carried out by a qualified transportation planner or engineer pursuant
808 to an accepted methodology of transportation planning or engineering, or
809
- 810 (2) The independent source is an accepted standard source of transportation
811 engineering or planning data.
812

- 813 D. A determination by the Transportation Planning Division Manager, or his/her
814 designee, that the alternative calculation does not satisfy the requirements of this
815 Section may be appealed consistent with Section 56.23, herein.
816
- 817 E. Since processing an Alternative Transportation Impact Fee Calculations involves
818 significant City Staff time, the development permit applicant shall initiate any
819 Alternative Impact Fee Calculation (1) at least sixty (60) days prior to the date they
820 will need a final determination of their Transportation Impact Fee, or (2) arrange for
821 the escrow of payment subject to Alternative Transportation Impact Fee Calculation
822 as set forth below at the date of application for the development permit. Any claim
823 for an Alternative Transportation Impact Fee not so made shall be deemed waived
824 and the Rate Schedule in Section 56.07 shall apply. Eligible applicants shall submit
825 the Alternative Transportation Impact Fee Calculation with the appropriate
826 application fee, (site impact traffic study fee) and supporting documentation, in
827 accordance with the listed schedule of permitting fees as amended from time to
828 time.
829
- 830 F. The Transportation Planning Division Manager, or his/her designee, may conduct a
831 follow-up review or site impact traffic study, to confirm the traffic assumptions
832 presented and approved in the Alternative Impact Fee Calculation study within five
833 (5) years of acceptance of the study. Additional transportation impact fees
834 attributable to trips shown to exist by the follow-up review, but not previously
835 accounted for in the study referenced above and incorporated into the transportation
836 impact fee assessed pursuant to said study, shall be deemed the additional
837 transportation impact fee due and owing for the proposed land use, and said
838 additional impact fee shall be paid to the City within thirty (30) days of a demand
839 letter to the property owner.
840
- 841 G. The Transportation Planning Division Manager may initiate studies to calculate
842 Alternative Transportation Impact Fees pursuant to this Section, when he/she
843 believes that the transportation impacts of a land use or uses will be less than the
844 standards in this Chapter. In that event, the Alternative Transportation Impact Fee
845 shall be the impact fee due and owing for the land use or uses, when such study
846 and calculations are approved by resolution of City Council.
847

848 Sec. 56.09. - Presumption of Maximum Impact.
849

850 A land use is presumed to have the maximum transportation impact on the road
851 network. The proposed land use for which an application for a development permit has
852 been filed shall be presumed to generate the maximum number of average daily vehicle
853 trips, vehicle miles of travel and lane miles of travel (and Person Miles of Travel) to be
854 generated by the most appropriate land use category(s) as determined by the
855 Transportation Planning Division Manager, or his designee.
856

857 Sec. 56.10. - Agreements.
858

859 Any applicant may propose to enter into a Transportation Impact Fee or Escrow
860 Agreement with the City designed to establish just and equitable fees or their equivalent
861 and standards of service needs appropriate to the circumstances of the proposed land
862 use.
863

ORDINANCE NO. 2016-65

864 A. A Transportation Impact Fee Agreement shall be limited to the following:
865

866 (1) *Alternative Calculation, 56.08* Modify the presumption of maximum
867 transportation impact set forth in Section 56.09 of this Chapter and provide
868 a transportation impact fee which may differ from the rate schedule set
869 forth in Section 56.07 of this Chapter by specifying the nature of the
870 proposed land use for purposes of computing actual trips, provided that this
871 Agreement for Alternative Calculation shall establish legally enforceable
872 means for ensuring that the actual number of trips generated will not
873 exceed the estimated trips generated by the proposed land use.
874

875 (2) *Credit.* Permit or recognize the construction of specific transportation
876 improvements in lieu of or with a credit against the transportation impact
877 fee assessable.
878

879 (3) *Transportation Impact Fee Payment.* Permit a schedule and method for the
880 payment of the transportation fees in a manner appropriate to the particular
881 and unique circumstances of the proposed land use in lieu of the
882 requirements for payment of the transportation impact fees as set forth in
883 Section 56.18, provided that security is posted ensuring payment of the
884 transportation impact fees, in a form acceptable to the City, which security
885 may be in the form of the following:
886

887 a. Cash bond.
888

889 b. Letter of Credit. The City may, in its sole discretion, accept a Letter of
890 Credit as security for payment of the transportation impact fee. The
891 following conditions are applicable in posting Letter(s) of Credit as
892 security:
893

894 1. The Letter(s) of Credit must be an Irrevocable Direct-Pay Letter of
895 Credit from a domestic financial institution rated AA/Aa or better
896 by a national rating service, or otherwise determined acceptable
897 by the City. The applicant has the burden of providing evidence
898 that the financial institution issuing the Letter of Credit has the
899 necessary rating and has the duty to notify the City or any
900 changes in such rating that may occur.
901

902 2. Only if the greater of fifty percent (50%) of the transportation
903 impact fee assessed or the amount of the fee not in dispute is paid
904 in cash, then a Letter of Credit may be used as security for the
905 balance. Security for the balance of the transportation impact fee
906 assessed by the City must be in the form of an Irrevocable Letter
907 of Credit directly payable to the City and placed in escrow,
908 pursuant to subsection B below. A Letter of Credit cannot be used
909 to post security for the full amount of the transportation impact fee
910 payment.
911

912 3. Letters of Credit having a provision for expiration must specify a
913 date of expiration that shall occur no later than ten (10) City

ORDINANCE NO. 2016-65

- 914 business days following the latest contingency date provided for in
915 the Escrow Agreement.
- 916
- 917 4. Letter(s) of Credit shall only be allowed when the applicant desires
918 to undertake an alternative transportation impact fee calculation
919 (see A.(1) above) for the determination of the appropriate
920 transportation impact fee due from the proposed project or in
921 cases of credit (see A.(2) above), which permit or recognize the
922 construction of specific transportation improvements in lieu of or
923 with a credit against the transportation impact fee assessable.
- 924
- 925 5. In lieu of negotiating and drawing on the Letter of Credit, the City's
926 escrow agent shall have the right, after determination of the
927 transportation impact fee amount with respect to the subject
928 property, to collect any additional sums due directly from the
929 developer. In the event such sums are paid in cash directly from
930 the developer to the City's escrow agent, for subsequent
931 disbursement to the City, then the City's escrow agent shall return
932 the Letter of Credit to the issuing bank for cancellation.
- 933
- 934 c. An Immediately Funded Escrow Account.
- 935
- 936 (4) *Assignment.* Provide for a transfer of credits as provided for in Section
937 56.11 of this Chapter to any successor in interest of land. An executed
938 Credit Agreement which authorizes assignment of credits does not require
939 a separate assignment agreement.
- 940
- 941 (5) Permit the cost of constructing non-site related public transportation
942 projects, as a credit against the transportation impact fee assessable.
943 Public transportation projects may include:
- 944
- 945 a. Dedication of parking spaces for use by public transportation users
946 who would park their cars in the dedicated area and ride public
947 transportation to their final destinations.
- 948
- 949 b. Dedication of land for use as a transit terminal and transfer point.
- 950
- 951 c. Construction of bus shelters or other capital improvements which
952 encourage the use of public transportation.
- 953
- 954 d. Participation by the primary employer or group of employers in an
955 employee bus subsidy program.
- 956
- 957 e. Participation of the employer or group of employers in ridesharing
958 program for its employees.
- 959
- 960 f. For d. and e. above, the applicant must describe the extent of the
961 program and expected usage by employees. The City may record a
962 lien against the development site to secure the assessment of any
963 additional impact fee if the program does not result in the anticipated
964 automobile trip reduction within three (3) years of recording.

965
 966
 967
 968
 969
 970
 971
 972
 973
 974
 975
 976
 977
 978
 979
 980
 981
 982
 983
 984
 985
 986
 987
 988
 989
 990
 991
 992
 993
 994
 995
 996
 997
 998
 999
 1000
 1001
 1002
 1003
 1004
 1005
 1006
 1007
 1008
 1009
 1010
 1011
 1012
 1013
 1014
 1015

(6) Except for assignment of credit agreements, any agreement proposed by an applicant pursuant to this subsection shall be presented to and approved by the City Council prior to the issuance of a development permit. Any such agreement shall provide for execution by mortgagees, lien holders or contract purchasers in addition to the landowner, and shall require the applicant to record such agreement in the Official Records of Orange County. The City of Orlando City Council 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 Florida Statutes and case law. The Transportation Planning Division Manager or his/her designee is hereby delegated and authorized to execute credit assignment agreements on behalf of the City Council, subject to approval by the City Attorney, or his/her designee.

B. Escrow Agreement. The Transportation Planning Division Manager or his/her designee, is hereby delegated the authority to approve and execute, subject to approval by the City Attorney, escrow agreements for the payment of Transportation Impact Fees. The Escrow Agreement shall allow the Applicant to obtain a development permit prior to payment provided adequate security is posted, as outlined in subsection A(3) above and on the condition that payment is received prior to the issuance of a certificate of occupancy for any portion of the development authorized by the Permit. Escrow Agreements are intended to allow for flexibility in payment when credits are determined, Alternative Transportation Impact Fee Calculation is conducted, cash is obtained, or similar types of situations.

Sec. 56.11. - Credits.

- A. An applicant shall be entitled to a credit against the transportation impact fee assessed pursuant to this Chapter for non-site related transportation contributions, dedications or improvements required by the City or through agreements with the City, as a condition of any development permit by the City, and said credit shall be in an amount equal to:
- (1) The cost of non-site related transportation improvements to the major road network (including on-site and site adjacent arterial roads and major collectors to the extent such transportation improvements are in excess of or in addition to site related improvements), or
 - (2) The contribution of land, money or services for non-site related transportation improvements to the major road network (including on-site and site adjacent arterial roads and major collectors to the extent such transportation improvements are in excess of or in addition to site related transportation improvements), or
 - (3) Non-site related transportation improvements previously contributed, paid for or committed to by the applicant or his predecessor in interest (including on-site and site adjacent arterial roads and major collectors to the extent such transportation improvements are in excess of or in addition to site related

ORDINANCE NO. 2016-65

- 1016 improvements). No credit will be granted pursuant to this subsection unless the
1017 cost of the improvements were paid for and the contributions made within the
1018 last five (5) years.
1019
- 1020 (4) The cost of land or capital improvements for non-site related public
1021 transportation projects, to the extent that such projects reduce the external
1022 vehicular trip generation of the land use.
1023
- 1024 B. The amount of the credits shall be based on but not limited to the following criteria:
1025
- 1026 (1) The actual cost, or estimated cost of the non-site related transportation
1027 improvements based on recent bid sheet information of the City of Orlando or
1028 Orange County; all costs are subject to the review and approval of the City
1029 Transportation Engineer or Designee prior to credit award; and
1030
- 1031 (2) With regard to land dedicated for construction of non-site related transportation
1032 improvements, a pro rata share of the fair market land value of the parent
1033 parcel in an amount not to exceed 150% of assessed value according to the
1034 Orange County Property Appraiser's Office;
1035
- 1036 (3) The marginal cost of the required transportation improvement(s), taking into
1037 consideration the difference between the cost of the required transportation
1038 improvement(s) and the cost of the needed site related transportation
1039 improvement(s) that would have been required in any case. All costs are
1040 subject to the review and approval of the City Transportation Engineer or
1041 Designee prior to credit award.
1042
- 1043 C. Previous development permits wherein voluntary transportation impact fees were
1044 specified and paid shall be binding as to any building permit already issued on land
1045 subject to the development permit. Transportation improvements required by
1046 previous development permits shall not be given a credit unless they meet the
1047 requirements of sub-paragraphs A and B above.
1048
- 1049 D. Any credit issued pursuant to this Section may only be transferred by the holder of
1050 said credits to any successor in interest in the specific development site to which the
1051 credit pertained or originated
1052
- 1053 E. Any agreement for the issuance of credits against any Transportation Impact Fee
1054 assessed pursuant to this Chapter shall be included in a transportation impact fee
1055 agreement as set forth in Section 56.10 of this Chapter.
1056
- 1057 F. Any petition for the issuance of credits against any Transportation Impact Fee
1058 assessed pursuant to this Chapter shall be submitted to the Transportation Impact
1059 Fee Coordinator prior to the issuance of the applicable permit and must contain:
1060
- 1061 (1) A notarized sworn statement that the petitioner is the current owner of the
1062 development site;
1063
- 1064 (2) A copy of any transportation impact agreement, credit agreement, or other
1065 documentation on which the applicant relies for the claim which may pertain to
1066 the issuance of such credits;

ORDINANCE NO. 2016-65

1067
1068
1069
1070
1071
1072
1073
1074
1075
1076
1077
1078
1079
1080
1081
1082
1083
1084
1085
1086
1087
1088
1089
1090
1091
1092
1093
1094
1095
1096
1097
1098
1099
1100
1101
1102
1103
1104
1105
1106
1107
1108
1109
1110
1111
1112
1113
1114
1115
1116

- (3) A certified copy of the latest recorded deed; and
 - (4) Such other information which may be reasonably necessary to ascertain current ownership of the property and the current status of the agreements for credits.
 - G. An applicant/developer may be entitled to a credit for all or some portion of the applicant's/developer's Proportionate Fair-Share Payment under the City's Proportionate Fair-Share Program, as provided in Chapter 59, City Code. Any credit granted pursuant to this sub-paragraph shall be for payments actually made and in an amount that is consistent with the terms of City's Proportionate Fair-Share Program, as defined by City Code, and this Chapter.
 - H. Any claim for credits must be made no later than the time for application for a building permit. Any claim not so made shall be deemed waived.
- Sec. 56.12. - Application of Rates.
- A. *City Approvals.* A developer or successor in interest of land for which a Master Plan, a Planned Development Ordinance, or a Conditional Use, has been approved by the City of Orlando City Council as of January 1, 2007, shall, to the limited extent described herein, be exempted from the rate increases contained in this Chapter, and shall be assessed a transportation impact fee based on those rates in effect on December 31, 2006.
 - B. *Permit Received.* Those land uses which have received a development permit prior to January 1, 2007, shall be assessed a transportation impact fee based on those rates in effect on December 31, 2006, except as provided otherwise in this Chapter. The City of Orlando shall not permit the extension of a development permit or application for a development permit beyond the standard time period for activation, under City of Orlando Code without the applicant complying with the provisions of this Chapter, which includes the assessment of a transportation impact fee based on those rates applicable at the time the permit is issued.
 - C. *Complete Application.* A developer or successor-in-interest of land, for which a master plan, planned development ordinance, or conditional use is not required, who has filed a complete application with the City for a development permit as of January 1, 2007, shall be assessed a transportation impact fee based on those rates in effect on December 31, 2006. The land must be properly zoned for the proposed land use and the land use must be consistent with the growth management plan.
 - D. If a previously City-approved development order, permit or other binding agreement contained conditions regarding traffic impacts, transportation impact fees and their designated uses, or off-site transportation improvements, the developer or his successor may request a modification of such prior approvals in order to bring the approval conditions into consistency with this Chapter, as amended. Any such modification of prior approvals and amendments to development orders so accomplished shall not be deemed a substantial deviation under F.S. Ch. 380.

ORDINANCE NO. 2016-65

1117 E. If a previously City-approved development order or permit or other binding
1118 agreement provides for the mitigation of the traffic impacts of said land use and if
1119 the Transportation Planning Division Manager, or his designee, determines that
1120 such traffic impact mitigation measures are substantially consistent with the
1121 requirements of this Chapter, as amended, then the transportation impact fee
1122 payable for such land use under this Chapter, as amended, shall be revised
1123 accordingly to reflect the presumed traffic impact of said land use. There shall be a
1124 presumption that the traffic impact mitigation provisions of any development order or
1125 permit approved more than five (5) years prior to January 1, 2007, are not
1126 substantially consistent with the requirements of this Chapter, as amended. This
1127 subsection shall not apply where a City-approved development order provides that
1128 at such time as the City of Orlando adopts a transportation impact fee Chapter,
1129 thereafter the provisions and terms of the adopted impact fee Chapter will apply to
1130 the development project.

1131
1132 F. A developer or successor in interest of land for which the City, through its City
1133 Council, has formally, and in writing prior to January 1, 2007, acknowledged the
1134 existence of transportation impact fee credits, "Agreement Credits," shall, to the
1135 limited extent described herein, be exempted from the rate increases contained in
1136 this Chapter and shall be assessed a transportation impact fee based on those rates
1137 referenced in the City's written acknowledgment of Agreement Credits. Credits are
1138 defined in Section 56.11, herein, as certain non-site-related costs. Strictly limited to
1139 the amount of the Agreement Credits, the land shall be assessed transportation
1140 impact fees based on the rates referenced in the City's written acknowledgment of
1141 Agreement Credits.

1142
1143 If the Agreement Credits or any portion thereof are utilized to pay impact fees
1144 related to the issuance of a development permit with respect to said land, under the
1145 terms of Section 56.12.A, herein, the Agreement Credits may be utilized and expended
1146 no later than December 31, 2010. Prior to December 31, 2010, a developer or successor
1147 in interest of land, may request, in writing to the Transportation Official, an extension of
1148 the time in which the Agreement Credits must be expended, to December 31, 2013.
1149 Upon the Transportation Planning Division Manager's determination that the developer
1150 or successor in interest of land is otherwise in compliance with the terms and
1151 requirements of this Chapter and any agreements, by which the Agreement Credits were
1152 established, the requested extension shall be granted. The extension will not otherwise
1153 affect or impact the terms and requirements of this Chapter and any applicable
1154 agreements, which terms and requirements remain effective and constitute a condition
1155 of the extension.

1156
1157 Said determination(s) of extension are subject to appeal as provided in this Chapter.
1158 Any portion of the Agreement Credits not expended within the herein-described time
1159 frame, shall no longer operate to require application of rates referenced in the City's
1160 written acknowledgment of Agreement Credits and shall subsequently be utilized solely
1161 to pay impact fees at then-existing rates. No portion of the Agreement Credits may be
1162 transferred to or utilized for other land(s). The City shall establish fees for the application
1163 in accordance with applicable law.

1164
1165 G. A developer or successor in interest of land may prepay transportation impact fees
1166 for development of said land under the following conditions:

1167

ORDINANCE NO. 2016-65

- 1168 (1) The prepayment of impact fees must be made to the Transportation Impact Fee
1169 Coordinator no later than December 31, 2006.
1170
1171 (2) Except as otherwise provided, the prepayment shall be treated as a
1172 "Prepayment Credit" in the same manner as Agreement Credits under the
1173 terms of sub-paragraph F herein, for the purpose of determining the application
1174 of rates.
1175
1176 (3) No portion of the Prepayment Credit may be transferred to or utilized for other
1177 land(s), and no portion of the Prepayment Credit will be returned to the
1178 developer or successor-in-interest.
1179
1180 (4) Except as described herein a developer or successor in interest must expend
1181 the Prepayment Credit to pay impact fees for the issuance of development
1182 permit(s) with respect to said land no later than December 31, 2009. Prior to
1183 December 31, 2009, a developer or successor in interest of land may request,
1184 in writing to the Transportation Official, an extension of the time in which the
1185 Prepayment Credit must be expended, to December 31, 2012. Upon the
1186 Transportation Planning Division Manager's determination that the developer or
1187 successor in interest of land is otherwise in compliance with the terms and
1188 requirements of this Chapter and any agreements, by which the Prepayment
1189 Credit was established, the requested extension shall be granted. The
1190 extension will not otherwise affect or impact the terms and requirements of this
1191 Chapter and any applicable agreements, which terms and requirements remain
1192 effective and constitute a condition of the extension.
1193
1194 H. Any claim for the application of impact fee rates different from the rates in effect at
1195 the time of permit issuance, must be made in writing to the Transportation Impact
1196 Fee Coordinator no later than the time of application for a development permit. Any
1197 claim not so made shall be deemed waived.
1198
1199 I. Nothing in this Section shall operate to impair the rights or obligations contained in a
1200 binding agreement between the City of Orlando and a developer or successor-in-
1201 interest of land relating to said land and the payment of transportation impact fees.
1202 A developer or successor-in-interest of land, who is a party to such binding
1203 agreement, may apply to the City's Transportation Planning Division Manager, in
1204 writing, at any time prior to issuance of a development permit for said land, for a
1205 determination of the application of impact fee rates.
1206

1207 Sec. 56.13. - Limited Access—Grade Separated Road Improvements.

1208
1209 The Transportation Impact Fee formula contained in this Chapter is designed to
1210 calculate costs inherent in the construction of at-grade transportation improvements and
1211 is not intended to assess an amount that constitutes an approximation of the cost to
1212 construct limited access grade separated road improvements. Therefore, if an
1213 assessment for limited access-grade separated road improvements is required, then to
1214 the extent permitted by law, said assessment shall be considered as an addition to the
1215 assessment calculated pursuant to the terms of this Chapter.
1216

- 1217 A. The provisions of this section shall only apply where the City of Orlando City
1218 Council has established a limited access—grade separated road improvement

1219 assessment area designed to assess the properties within such assessment
1220 area an amount equal to the pro rata share of the cost of such improvements
1221 based on the units of development to occur within the assessment area.
1222

- 1223 B. The assessment for required limited—access or grade separated road
1224 improvements calculated pursuant to the terms of this section shall be adjusted
1225 to insure that the land use's transportation impacts on the road network are not
1226 counted twice.
1227

1228 Sec. 56.14. - Site Related Transportation Improvements.
1229

1230 The Transportation Impact Fee formula contained in this Chapter is designed to
1231 calculate the costs inherent in the construction of non-site related transportation
1232 improvements and is not intended to assess an amount that constitutes an
1233 approximation of the costs to construct site related transportation improvements.
1234 Therefore, if an assessment for or the construction of site related transportation
1235 improvements are required as a condition of development approval or permit, then to the
1236 extent permitted by law, said assessment or construction requirements shall be
1237 considered as an addition to the assessment calculated pursuant to the terms of this
1238 Chapter.
1239

1240 Sec. 56.15. - Exemptions.
1241

1242 The following shall be exempted from payment of the Transportation Impact Fee:
1243

- 1244 A. Alteration or expansion of an existing dwelling unit of a residential land use
1245 where no additional units are created or the use is not changed.
1246
- 1247 B. The construction of accessory buildings or structures or the addition of uses, to
1248 the extent that there is no increase in trip generation, with respect to the
1249 existing principal land use. For example, though not exclusively: (i) Construction
1250 of a detached garage (without a living unit), to a single family residential unit; (ii)
1251 construction of a shade structure with no services performed under it and no
1252 additional occupancy because of it; and (iii) up to 15% of warehouse (unit) floor
1253 area used for office but still assessed as warehouse space.
1254
- 1255 C. Construction of a residential unit(s), owner-occupied or tenant- occupied, with a
1256 City-approved Affordable or Attainable Housing Certification to the following
1257 extents: (any exemption in this category may operate as a reimbursement,
1258 without interest, if the Project is not certified, as described above, at the time of
1259 application for development permit but obtains City-approved Affordable or
1260 Attainable Housing certification prior to the issuance of a certificate of
1261 occupancy for the applicable unit).
1262
- 1263 1. One hundred percent (100%) reimbursement/exemption of the
1264 transportation impact fees assessed for certified Affordable Housing units,
1265 if the certified Affordable Housing project meets the City's commuter
1266 criteria.
1267
 - 1268 2. Fifty percent (50%) reimbursement/exemption of the transportation impact
1269 fees assessed for certified Affordable Housing units if the certified

ORDINANCE NO. 2016-65

1270
1271
1272
1273
1274
1275
1276
1277
1278
1279
1280
1281
1282
1283
1284
1285
1286
1287
1288
1289
1290
1291
1292
1293
1294
1295
1296
1297
1298
1299
1300
1301
1302
1303
1304
1305
1306
1307
1308
1309
1310
1311
1312
1313
1314
1315
1316
1317
1318
1319

Affordable Housing project is not located within a ¼ (one-quarter) mile distance to a City-designated Activity Center, light rail station, or commuter rail station, and the project is not located within ¼ (one-quarter) mile distance of a public transit stop, as determined by the City.

3. Seventy-five percent (75%) reimbursement/exemption of the transportation impact fees assessed for certified Attainable Housing units, if the certified Attainable Housing project meets the City's commuter criteria.

4. Twenty-five percent (25%) reimbursement/exemption of the transportation impact fees assessed for certified Attainable Housing units if the certified Attainable Housing project is not located within a ¼ (one-quarter) mile distance to a City-designated Activity Center, light rail station, or commuter rail station and the project is not located within ¼ (one-quarter) mile distance of a public transit stop, as determined by the City.

D. Low-income, owner-occupied, or tenant-occupied housing as defined by Resolution of the City of Orlando, Florida, adopting an affordable housing certification process and establishing an effective date, adopted on February 8, 1993, Documentary No. 25367-A, and any amendments thereto, or as approved by the Housing and Community Development Department of the City of Orlando.

E. Outdoor eating and drinking areas that constitute less than 25% of the total eating and drinking establishment, including the outdoor square footage used or leased in connection with the outdoor eating and drinking establishment. These are outdoor areas integrally related and customarily found in association with eating and drinking establishments. Establishments with vehicle drive-through facilities or which later construct vehicle drive-through facilities are not eligible for this exemption.

F. Publicly owned and operated buildings, structures or uses used for general governmental purposes (to include but not limited to public schools, sewer, stormwater, police, fire, ground transportation, solid waste, parks, and recreation).

G. The publicly owned air passenger terminal buildings at Orlando International Airport ("OIA") and at Orlando Executive Airport ("OEA"), for those airport-related land uses therein which are provided within the terminal building and which the consumption is exclusively within public airport terminals of comparable size and at a scale commensurate with the level of activity at the airport (including all expansions and additions thereto). Fixed Based Operators to the extent that they provide essential airport services.

Those land uses at OIA and OEA which are of a type which must be located on an airport, but which will not be used and occupied primarily for essential airport services at OIA and OEA, shall pay impact fees based on actual use. All other land uses occurring on the premises of OIA or OEA, unless otherwise exempted, shall be subject to full payment of the Transportation Impact Fee. For purposes of this subsection, the term "essential airport service" shall mean

- 1320 the provision of goods or services which are essential to the safe and efficient
 1321 operation of the airport.
 1322
- 1323 H. For the period beginning April 11, 2011, any change, redevelopment, or
 1324 modification of a land use that results in a commercial or industrial use which
 1325 requires the issuance of a development permit, (i) provided that the proposed
 1326 land use is consistent with the City's then current zoning and future land use
 1327 designation for such property and (ii) to the extent that the size of the
 1328 structure(s) is not increased or expanded and the footprint of the structure(s) is
 1329 not altered. This exemption to payment of all or a portion of a Transportation
 1330 Impact Fee for any change, redevelopment or modification of a land use is
 1331 limited to (i) a maximum of twenty thousand dollars (\$20,000.00) and (ii)
 1332 applicants for a development permit that constitute a Small Business as that
 1333 term is defined by the City's Economic Development Department's Office of
 1334 Business Assistance per the United States Small Business Administration's size
 1335 standards, effective July 2014. The exemption shall not apply to any
 1336 development permits issued prior to April 11, 2011, including development
 1337 permits which have been issued pursuant to an approved Transportation
 1338 Impact Fee Payment Plan under Section 56.10(3), City Code and development
 1339 permits which have [been] issued pursuant to an Alternative Transportation
 1340 Impact Fee Calculation under Section 58.08, City Code. The exemption is non-
 1341 transferable without the written consent of the City's Transportation Planning
 1342 Division Manager or his/her designee and does not affect the City's authority to
 1343 impose impact fees on future development of the property. The City's
 1344 Transportation Planning Division Manager or his/her designee, shall, prior to
 1345 October 1st of each year, review and analyze this subsection to determine if it
 1346 remains necessary and in the public interest to facilitate economic
 1347 development, based on generally accepted principles and data. If the
 1348 Transportation Planning Division Manager determines that the exemption
 1349 established by this subsection is not necessary and in the public interest to
 1350 facilitate economic development, he or she shall make a recommendation to
 1351 the City's Chief Administrative Officer that this subsection be amended to
 1352 terminate or revise the exemption accordingly. Previously granted exemptions
 1353 under this subsection shall be reviewed annually to ensure compliance with the
 1354 terms and conditions of the application for development permit and the
 1355 standards of the exemption. If any violation is found, the City shall be entitled to
 1356 impose an impact fee on the property in the amount of the exemption.
 1357
- 1358 I. Any new development, or portion thereof, located on a development site which
 1359 is defined as a Transit Oriented Development, "TOD," under this Chapter to the
 1360 extent that the below criteria are met:
 1361
- 1362 1. The development site shall be composed of a compact, dense mixture of
 1363 land uses, including residential, with the ground floor consisting of primarily
 1364 (>50%) active uses, as defined in this Chapter.
 - 1365
 - 1366 2. Pedestrian facilities serving the development sits shall meet or exceed City
 1367 codes and policies.
 - 1368
 - 1369 3. Bicycle facilities serving the development site shall meet or exceed City
 1370 codes and policies.

1371
1372
1373
1374
1375
1376
1377
1378
1379
1380
1381
1382
1383
1384
1385
1386
1387
1388
1389
1390
1391
1392
1393
1394
1395
1396
1397
1398
1399
1400
1401
1402
1403
1404
1405
1406
1407
1408
1409
1410
1411
1412
1413
1414
1415
1416
1417
1418
1419
1420

4. Reserved.

5. The Developer shall enter into an agreement(s) to fund or subsidize transit ridership for employees, residents, and/or guests at the development site. A completed application form requesting the TOD exemption must be submitted to the City's Transportation Planning Division Manager, for review. It is the applicant's responsibility to submit sufficient data in a timely fashion for said review. If the City's Transportation Planning Division Manager determines that insufficient data has been submitted or that any of the four criteria are not met, the application for exemption will be denied. Each of the four criteria, if met in full, shall receive a twelve and one-half percent (12½%) reduction to the Transportation Impact Fee assessed against the development or portion thereof, with the approval of the Transportation Division Manager. If the development's residential density or commercial intensity exceeds the maximum density or intensity set by City Code due to the City's approval of bonuses, then the development shall be entitled to an additional ten percent (10%) reduction to the Transportation Impact Fees assessed against the development or portion thereof. The terms of this TOD subsection shall only apply to building permits issued after January 1, 2016, as long as a complete application for said permit is filed on or before August 1, 2015.

J. Any claim of exemption must be made no later than the time for application for a development permit. Any claim not so made shall be deemed invalid.

Sec. 56.16. - Establishment of Transportation Benefit Areas.

Transportation Benefit Areas are herein established as a means to demonstrate that a benefit relationship exists between the transportation improvements funded by transportation impact fees collected and the land uses from which the transportation impact fees were assessed. Transportation impact fees collected from land uses within a Transportation Benefit Area shall be used to implement transportation improvement projects within that area. The Transportation Benefit Areas are shown on the map labeled Exhibit "B" attached hereto and made part hereof.

Sec. 56.17. - Establishment of Trust Funds.

- A. The transportation impact fees collected by the City pursuant to this Chapter shall be kept in separate accounts from other revenue of the City. There shall be one fund established for each of the Transportation Benefit Areas shown on Exhibit "B" of this Chapter attached hereto and made a part hereof.
- B. Funds withdrawn from these accounts must be used solely in accordance with the provisions of this Chapter. The expenditure of such funds shall require the budgetary approval of the City of Orlando City Council, upon recommendation of the Mayor, or a City-approved Agreement authorizing the expenditure of such funds consistent with this Chapter.

Sec. 56.18. - Collection of Transportation Impact Fee Assessment.

ORDINANCE NO. 2016-65

1421 A. Except as provided for in Sections 56.05 and 56.10 of this Chapter, the
1422 Transportation Impact Fee Assessment shall be due and payable at the time of
1423 issuance of the development permit for the traffic generating land use.

1424
1425 B. The transportation impact fee shall be collected by the Transportation Impact Fee
1426 Coordinator, or his designee, and any administrative charges for said collection,
1427 shall be limited to the City's reasonable costs.

1428
1429 Sec. 56.19. - Use of Funds Collected.

1430
1431 A. The funds collected by reason of establishment of the transportation impact fee in
1432 accordance with this Chapter shall be used solely for the purpose of administering,
1433 planning, acquisition, expansion and development of non-site related transportation
1434 improvements to the City's Multimodal Transportation network determined to be
1435 needed to serve new land uses, including, but not limited to:

- 1436
1437 (1) corridor studies and environmental assessments,
1438
1439 (2) design and construction plan preparation,
1440
1441 (3) right-of-way acquisition,
1442
1443 (4) construction of new through lanes,
1444
1445 (5) construction of new turn lanes,
1446
1447 (6) construction of new bridges,
1448
1449 (7) construction of new drainage facilities in conjunction with new roadway
1450 construction,
1451
1452 (8) design, purchase and installation of traffic signalization, signage and marking,
1453
1454 (9) construction of new curbs, medians and shoulders,
1455
1456 (10) construction of mass-transit projects,
1457
1458 (11) construction of multi-use bicycle trails,
1459
1460 (12) pedestrian improvements that are integrally related to transportation
1461 improvements and serve to separate pedestrians from vehicles, thus enhancing
1462 the carrying capacity of the transportation system,
1463
1464 (13) other improvements, as determined by the City's Transportation Planning
1465 Division Manager, that add to the pedestrian or vehicle carrying capacity of the
1466 transportation system.

1467
1468 B. All funds shall be used exclusively within the Transportation Benefit Areas (See
1469 Exhibit B) from which they were collected and in a manner consistent with the
1470 principles set forth in State case and Statutes law, and otherwise consistent with all
1471 requirements of the Constitution of the United States and the State of Florida and all

1472 applicable laws. Said funds shall not be used to maintain or repair any roads or
 1473 other transportation improvements.

1474
 1475 C. *Interest on Funds.* Any funds on deposit not immediately necessary for expenditure
 1476 shall be invested in interest-bearing accounts. All income derived shall be deposited
 1477 in the applicable trust account.

1478
 1479 D. The City of Orlando shall be entitled to retain an amount of \$100,000 or three
 1480 percent (3%), whichever is greater, of the aggregate of annual, collected impact
 1481 fees. The retained funds shall be utilized to offset the actual administrative costs
 1482 associated with the collection and use of said funds that year pursuant to this
 1483 Ordinance.

1484
 1485 Sec. 56.20. - Return of Funds.

1486
 1487 If it is determined by the City of Orlando that transportation impact fee assessments
 1488 collected pursuant to this Chapter have not been spent or encumbered for expenditure
 1489 by the end of the calendar quarter immediately following six (6) years from the date said
 1490 fee was received, or if the land uses for which the fees were paid have been officially
 1491 and formally abandoned and it has been six (6) years since the transportation impact
 1492 fees were paid, then said funds shall be eligible for refund to the then present owner in
 1493 accordance with the following procedures:

1494
 1495 A. The then present owner must petition the City Council for the refund within one
 1496 (1) year following the end of the calendar quarter immediately following five (5)
 1497 years from the date on which the fee was received by the City. The petition
 1498 must be submitted to the City's Transportation Planning Division Manager and
 1499 must contain:

- 1500
 1501 (1) a notarized sworn statement that the petitioner is the current owner of the
 1502 development site;
 1503
 1504 (2) a copy of the dated receipt issued for payment of the transportation impact
 1505 fee;
 1506
 1507 (3) a certified copy of the latest recorded deed;
 1508
 1509 (4) a copy of the most recent ad valorem tax bill; and
 1510
 1511 (5) such other information which may be reasonably necessary to ascertain
 1512 current ownership of the development site.

1513
 1514 B. Within sixty (60) days from the date of receipt of petition for refund, the
 1515 Transportation Planning Division Manager or his designee shall advise the
 1516 petitioner and the City Council of the status of the transportation impact fee
 1517 requested for refund. For the purpose of determining whether said fees have
 1518 been spent or encumbered, the first money placed in a trust fund account shall
 1519 be deemed to be the first money taken out of that account when withdrawals
 1520 have been made.
 1521

- 1522 C. When the money requested is still in the trust fund account and has not been
1523 spent or encumbered by the end of the calendar quarter immediately following
1524 five (5) years from the date the fees were paid, the money shall be returned
1525 with interest at the rate of three percent (3%) per annum.
1526
1527 D. Any return of Transportation Impact Fees under this Section shall be reduced
1528 by three percent (3%) per annum on the applicable funds, to account for the
1529 City's administrative and processing costs. Funds paid into Proportionate Fare
1530 Share programs or transportation concurrency reservation programs, shall be
1531 returned consistent with Chapter 59.
1532

1533 Sec. 56.21. - Review.
1534

1535 This Chapter shall be reviewed by the City Council at least every four years,
1536 beginning October 1, 2007. The review shall include trip generation rates, trip lengths,
1537 construction and right-of-way acquisition costs, Chapter provisions, impact fee rates and
1538 other applicable items. The purpose of this review is to analyze the effects of inflation on
1539 the actual costs of transportation improvements, to review and revise, if necessary, this
1540 Chapter in accordance with the most recently adopted Transportation Element and to
1541 ensure that the transportation impact fee charged for new traffic generating land uses
1542 will not exceed its pro rata share for the reasonably anticipated expansion costs of
1543 transportation improvements necessitated solely by its presence. Failure of the City of
1544 Orlando to undertake such a review shall result in the continued use and application of
1545 the existing fee schedule and other data. The review described herein, is in addition to
1546 and not to the exclusion of the indexing and review requirements contained in Section
1547 56.07 of this Chapter.
1548

1549 Sec. 56.22. - Penalty.
1550

1551 Violations of this Chapter by Developer/Applicant shall be prosecuted as provided
1552 by City Code or by an injunction or other legal or equitable relief in the circuit court
1553 against any person violating this Chapter.
1554

1555 Sec. 56.23. - Appeals of Impact Fee Determinations.
1556

- 1557 A. Any person desiring to appeal an administrative decision regarding a determination
1558 relating to the payment of transportation impact fees or credits shall file a written
1559 Notice of Appeal with the Transportation Impact Fee Coordinator. Said Notice shall
1560 be filed within thirty (30) days of the decision sought to be appealed. A required
1561 processing fee, as established from time-to-time by City Council, shall be submitted
1562 with the Notice of Appeal in order to defray actual administrative costs associated
1563 with processing the transportation impact fee appeals.
1564
1565 B. All Notices of Appeal shall include a full explanation of the reasons for the appeal,
1566 specifying the grounds therefor, and containing any documentation which the
1567 applicant desires to be considered. The appeal shall contain the name and address
1568 of the person(s) filing the appeal and shall state their capacity to act as a
1569 representative or agent if they are not the owner of the property to which the
1570 transportation impact fees or credit(s) pertain.
1571

- 1572 C. Within thirty (30) days following the receipt of the written Notice of Appeal, the
1573 Transportation Planning Division Manager will review the Appellant's written report,
1574 supporting documentation and departmental staff reports. The thirty (30) day review
1575 period may be extended if additional information is needed from the Appellant in
1576 order to render a decision. Upon completion of the administrative review, the
1577 Transportation Planning Division Manager will provide a written response to the
1578 Appellant.
1579
- 1580 D. Any person desiring to appeal the determination of the Transportation Planning
1581 Division Manager shall file a written Notice of Appeal to the Chief Administrative
1582 Officer for the City within fifteen (15) days following receipt of the determination.
1583 Receipt shall be construed to have occurred when the administrative determination
1584 is deposited in the United States mail postage prepaid to the person whose name
1585 and address was identified in the original Notice of Appeal. Within thirty (30) days
1586 following actual receipt of the written Notice of Appeal, the Chief Administrative
1587 Officer or his/her designee will review the Appellants' written report, supporting
1588 documentation and departmental staff reports. Upon completion of the
1589 administrative review, the Chief Administrative Officer or his/her designee will
1590 provide a written determination to Appellant.
1591
- 1592 E. Any person desiring to appeal the final administrative determination of the Chief
1593 Administrative Officer regarding the payment of transportation impact fees or credits
1594 shall file a written Notice of Appeal to City Council. Said Notice of Appeal to City
1595 Council shall be filed with the Chief Administrative Officer for the City within fifteen
1596 (15) days following receipt of the Chief Administrative Officer's final administrative
1597 determination. Receipt shall be construed to have occurred when the administrative
1598 determination is deposited in the United States mail postage prepaid to the person
1599 whose name and address was identified in the original Notice of Appeal.
1600
- 1601 F. All Notices of Appeal shall include a full explanation of the reasons for the appeal,
1602 specifying the grounds therefore, and containing any documentation which the
1603 applicant desires to be considered. The appeal shall contain the name and address
1604 of the person(s) filing the appeal and shall state their capacity to act as a
1605 representative or agent if they are not the owner of the property to which the
1606 transportation impact fees or credit pertain.
1607
- 1608 G. The City Clerk is responsible for scheduling transportation impact fee appeals
1609 before the City of Orlando City Council and will provide at least ten (10) days notice
1610 to the applicant of the date of the designated meeting. Postponements of the City
1611 Council appeal date may be granted by the City Clerk if they are requested in writing
1612 at least ten (10) days in advance of the scheduled City Council meeting date.
1613
- 1614 H. When an Appeal is scheduled for oral presentation before the City Council, the
1615 Appellant and the City staff shall each be given five (5) minutes at the oral argument
1616 to present the Appeal and to discuss the submitted written record.
1617

1618 **Secs. 56.24 – 56.29. Reserved.**

1619 **Part II – Parks Impact Fee**

1620 **Sec. 56.30. Short title, authority, and applicability.**

1623
1624
1625
1626
1627
1628
1629
1630
1631
1632
1633
1634
1635
1636
1637
1638
1639
1640
1641
1642
1643
1644
1645
1646
1647
1648
1649
1650
1651
1652
1653
1654
1655
1656
1657
1658
1659
1660
1661
1662
1663
1664
1665
1666
1667
1668
1669
1670
1671
1672
1673

- (a) This part shall be known and may be cited as the “Orlando Parks Impact Fee Ordinance.”
- (b) This ordinance is adopted pursuant to and in accordance with the authority granted and limitations imposed upon the city by Article VIII, Section 2(b), Florida Constitution, section 166.021, Florida Statutes, the Florida Impact Fee Act (section 163.31801, Florida Statutes), Florida case law relating to impact fees imposed by municipal governments, and other applicable law of Florida and ordinances of the city.
- (c) This ordinance applies throughout the City of Orlando.

Sec. 56.31. Purpose, intent, and findings.

The purpose and intent of this part, and the legislative findings supporting this part, are set forth in City Ordinance #2016-65 and are hereby incorporated into this part as if fully set forth herein.

Sec. 56.32. Definitions.

- (a) Attached residential dwelling unit means...as defined by Chapter 66 of this code.
- (b) Detached residential dwelling unit means...as defined by Chapter 66 of this code.
- (c) Impact fee means the fee imposed by section 56.35. The fee may also be referred to as the “parks impact fee,” the “parks and recreation facilities impact fee,” or some other similar iteration of these terms.
- (d) Park improvements means a physical asset, constructed or purchased, that is necessary to provide safe and adequate space for the public to recreate. The planning, acquisition, expansion, and construction of park projects includes park planning, preliminary engineering, engineering design, engineering studies, land surveys, land acquisition, engineering, permitting, and construction of all the necessary features for any park project, including without limitation:
 - 1. construction of recreation centers; and
 - 2. construction of playgrounds; and
 - 3. construction of basketball courts; and
 - 4. construction of drainage facilities in conjunction with park construction; and
 - 5. purchase and installation of lights; and
 - 6. construction of swimming pools; and

1674
1675
1676
1677
1678
1679
1680
1681
1682
1683
1684
1685
1686
1687
1688
1689
1690
1691
1692
1693
1694
1695
1696
1697
1698
1699
1700
1701
1702
1703
1704
1705
1706
1707
1708
1709
1710
1711
1712
1713
1714
1715
1716
1717
1718
1719
1720
1721
1722
1723

- 7. construction of ballfields; and
- 8. acquisition of land; and
- 9. other capital improvements to parks that have the effect of increasing the capacity of parks and recreation facilities.

Sec. 56.33. Parks impact fee fund established.

- (a) There is hereby established a parks impact fee fund for the revenue of the impact fees collected pursuant to this part.
- (b) Funds withdrawn from the parks impact fee fund may be used only in accordance with this part.

Sec. 56.34. Parks benefit areas established.

- (a) There is hereby established two parks benefit areas in the City of Orlando, one to be known as the "North Parks Benefit Area," and the other -as the "South Parks Benefit Area."
- (b) All land within the jurisdictional boundaries of the city is contained within one of the parks benefit areas. Where the boundary of a parks benefit area crosses an existing or proposed park or recreation facility, the divided park or recreation facility may be considered wholly within either parks benefit area or wholly within both of the parks benefit areas.
- (c) The boundaries of the parks benefit areas are hereby established by Figure 56.34-1.

[Drafter's note – please insert Figure 56.34-1 here, such figure being attached to this ordinance as **Exhibit C.**

Sec. 56.35. Impact fee imposed, rate established, comparable uses, adjustments, time of payment.

- (a) Subject to the various terms, conditions, credits, exemptions, and other provisions of this part, a parks impact fee is hereby imposed upon all new residential development in the City of Orlando, as follows:

<u>For each detached residential dwelling unit -</u>	<u>\$966</u>
<u>For each attached residential dwelling unit -</u>	<u>\$825</u>

Sec. 56.3. Presumptions, limitations, agreements and security for review requirements.

A land use is presumed to have the maximum impact on the City's parks system. The proposed residential land use for which an application for a development permit has been filed shall be presumed to generate the maximum demand, to be generated by the

1724 most appropriate residential land use category(s) as determined by the Director of
1725 Families Parks and Recreation, or his designee.

1726
1727 **Sec. 56.3. Credits.**
1728

1729 A. An applicant shall be entitled to a credit against the park impact fee
1730 assessed pursuant to this Chapter for non-site related park
1731 contributions required by the City or through agreements with the City,
1732 as a condition of any development permit by the City. Site related park
1733 improvements shall be defined as follows:

- 1734 a. Land dedication up to 0.0074 acres per dwelling unit
- 1735 b. Park improvements constructed in a neighborhood park

1736 B. The park impact fee credit shall be in an amount equal to:

- 1737 (1) The cost of non-site related park improvements to the City's
- 1738 parks system, or (2) The contribution of land, money or services for
- 1739 non-site related park improvements to the City's parks system
- 1740 (including on-site and site adjacent park facilities to the extent such
- 1741 park improvements are in excess of or in addition to site related
- 1742 park improvements), or
- 1743 (3) Non-site related park improvements previously contributed, paid
- 1744 for or committed to by the applicant or his predecessor in interest
- 1745 (including on-site and site adjacent park facilities to the extent such
- 1746 park improvements are in excess of or in addition to site related
- 1747 park improvements). No credit will be granted pursuant to this
- 1748 subsection unless the cost of the improvements were paid for and
- 1749 the contributions made within the last five (5) years.
- 1750 (4) The cost of land or capital improvements for non-site related
- 1751 public park projects, to the extent that such projects reduce the
- 1752 external demand of the residential land use.

1753
1754 B. The amount of the credits shall be based on but not limited to the
1755 following criteria:

- 1756 (1) The actual cost, or estimated cost of the non-site related park
- 1757 improvements based on recent bid sheet information of the City of
- 1758 Orlando or Orange County; all costs are subject to the review and
- 1759 approval of the Director of Families Parks and Recreation or
- 1760 designee prior to credit award; and
- 1761 (2) With regard to land dedicated for construction of non-site related
- 1762 park improvements, a pro rata share of the fair market land value
- 1763 of the parent parcel in an amount not to exceed 150% of assessed
- 1764 value according to the Orange County Property Appraiser's Office;

1765 (3) The marginal cost of the required park improvement(s), taking
1766 into consideration the difference between the cost of the required
1767 park improvement(s) and the cost of the needed site related park
1768 improvement(s) that would have been required in any case. All
1769 costs are subject to the review and approval of the Director of
1770 Families Parks and Recreation or designee prior to credit award.

1771
1772 C. Previous development permits wherein voluntary park impact fees were
1773 specified and paid shall be binding as to any building permit already
1774 issued on land subject to the development permit. Park improvements
1775 required by previous development permits shall not be given a credit
1776 unless they meet the requirements of sub-paragraphs A and B above.

1777
1778 D. Any credit issued pursuant to this Section may only be transferred by
1779 the holder of said credits to any successor in interest in the specific
1780 development site to which the credit pertained or originated.

1781
1782 E. Any agreement for the issuance of credits against any Park Impact Fee
1783 assessed pursuant to this Chapter shall be included in a park impact fee
1784 agreement as set forth in [Section XX.10](#) of this Chapter.

1785
1786 F. Any petition for the issuance of credits against any Park Impact Fee
1787 assessed pursuant to this Chapter shall be submitted to the Park Impact
1788 Fee Coordinator prior to the issuance of the applicable permit and must
1789 contain:

- 1790 (1) A notarized sworn statement that the petitioner is the current
1791 owner of the development site;
1792 (2) A copy of any park impact agreement, credit agreement, or
1793 other documentation on which the applicant relies for the claim
1794 which may pertain to the issuance of such credits;
1795 (3) A certified copy of the latest recorded deed; and
1796 (4) Such other information which may be reasonably necessary to
1797 ascertain current ownership of the property and the current status
1798 of the agreements for credits.

1799
1800 H. Any claim for credits must be made no later than the time for
1801 application for a building permit. Any claim not so made shall be deemed
1802 waived.

1803
1804
1805 **Sec. 56.4. Exemptions, discounts.**
1806

1807 The following shall be exempted from payment of the Park Impact Fee:

1808

1809 A. Alteration or expansion of an existing dwelling unit of a residential land use where no
1810 additional units are created or the use is not changed.

1811

1812 B. The construction of accessory buildings or structures or the addition of uses, to the
1813 extent that there is no increase in residential units, with respect to the existing principal
1814 land use. For example, though not exclusively: (i) Construction of a detached garage
1815 (without a living unit), to a single family residential unit; or (ii) construction of a shade
1816 structure with no services performed under it and no additional occupancy because of it.

1817

1818 C. Construction of a residential unit(s), owner-occupied or tenant-occupied, with a City-
1819 approved Affordable or Attainable Housing Certification to the following extents: (any
1820 exemption in this category may operate as a reimbursement, without interest, if the
1821 Project is not certified, as described above, at the time of application for development
1822 permit but obtains City-approved Affordable or Attainable Housing certification prior to
1823 the issuance of a certificate of occupancy for the applicable unit).

1824

1825 1. One hundred percent (100%) reimbursement/exemption of the park impact fees
1826 assessed for certified Affordable Housing units, if the certified Affordable Housing project
1827 is located in an area where park level of service exceeds the adopted standard.

1828 2. Fifty percent (50%) reimbursement/exemption of the park impact fees assessed for
1829 certified Affordable Housing units if the certified Affordable Housing project is located in
1830 a neighborhood or community park service area that currently does not meet the
1831 adopted level of service standard, or the number of units proposed would cause the area
1832 to no longer meet the adopted level of service standard.

1833

1834 D. Construction of an accessory apartment on a single family lot, where a single family
1835 home already exists or permits for such construction are being sought concurrently.

1836

1837

1838 **Sec. 56.4. Alternative impact fee calculation.**

1839

1840 In the event an applicant believes that the park impacts of a proposed residential land
1841 use on the Park System will be less than standards in this Chapter, the applicant may
1842 submit an Alternative Park Impact Fee Calculation application, including a supporting
1843 report, to the Director of Families Parks and Recreation, or designee, pursuant to the
1844 provisions of this Section. If the Director of Families Parks and Recreation, or designee,
1845 finds that the data, information and assumptions used by the applicant to calculate the
1846 alternative impact fee satisfy the requirements of this Section, the Alternative Park
1847 Impact Fee shall be deemed the Park Impact Fee due and owing for the proposed
1848 residential land use. Prior to submitting an application herein, the applicant shall meet
1849 with the Park Impact Fee Coordinator to establish the methodology to be utilized in the
1850 supporting report.

1851

1852 B. Alternative Park Impact Fee Calculation. The alternative impact fee shall be
1853 calculated by use of the following formulas:

1854

1855 INSERT PARK FEE CALCULATION HERE
1856 FROM STUDY

1857

1858
 1859
 1860
 1861
 1862
 1863
 1864
 1865
 1866
 1867
 1868
 1869
 1870
 1871
 1872
 1873
 1874
 1875
 1876
 1877
 1878
 1879
 1880
 1881
 1882
 1883
 1884
 1885
 1886
 1887
 1888
 1889
 1890
 1891
 1892
 1893
 1894
 1895
 1896
 1897
 1898
 1899
 1900
 1901
 1902
 1903
 1904
 1905
 1906
 1907
 1908

Policy Discount Factors adopted by Council and applied to the rate calculated under the Park Impact Fee equation are generally not applicable to Alternative Impact Fee calculations, unless expressly deemed so at the time of Council action.

C. At the pre-application meeting, the applicant shall submit a list of the specific factors from the above equation for which the applicant intends to provide alternative values, the proposed source of supporting data to justify the use of each alternative value, and the procedures and methodology that will be used to collect local supporting data. The alternative park impact fee calculations shall be based on data, information or assumptions obtained for comparable residential uses or from independent sources, provided that:

- (1) The comparable local land use, is based on actual studies or surveys conducted in the Orlando Urban Area, or with the specific approval of the Director of Families Parks and Recreation, or designee, in other urban areas and carried out by a qualified park planner pursuant to an accepted methodology of park planning or engineering, or
- (2) The independent source is an accepted standard source of planning data.

D. A determination by the Director of Families Parks and Recreation, or designee, that the alternative calculation does not satisfy the requirements of this Section may be appealed consistent with Section XX.23, herein.

E. Since processing an Alternative Park Impact Fee Calculations involves significant City Staff time, the applicant shall initiate any Alternative Impact Fee Calculation (1) at least sixty (60) days prior to the date they will need a final determination of their Park Impact Fee, or (2) arrange for the escrow of payment subject to Alternative Park Impact Fee Calculation as set forth below at the date of application for the development permit. Any claim for an Alternative Park Impact Fee not so made shall be deemed waived and the Rate Schedule in [Section XX.07](#) shall apply. Eligible applicants shall submit the Alternative Park Impact Fee Calculation with the appropriate application fee, and supporting documentation, in accordance with the listed schedule of permitting fees as amended from time to time.

F. The Director of Families Parks and Recreation, or designee, may conduct a follow-up review, to confirm the assumptions presented and approved in the Alternative Impact Fee Calculation study within five (5) years of acceptance of the study. Additional park impact fees attributable to demand shown to exist by the follow-up review, but not previously accounted for in the study referenced above and incorporated into the park impact fee assessed pursuant to said study, shall be deemed the additional park impact fee due and owing for the proposed land use, and said additional impact fee shall be paid to the City within thirty (30) days of a demand letter to the property owner.

G. The Director of Families Parks and Recreation may initiate studies to calculate Alternative Park Impact Fees pursuant to this Section, when he/she believes that the impacts of a residential land use or uses will be less than the standards in this Chapter. In that event, the Alternative Park Impact Fee shall be the impact fee due and owing for the land use or uses, when such study and calculations are approved by resolution of City Council.

1909
1910
1911
1912
1913
1914
1915
1916
1917
1918
1919
1920
1921
1922
1923
1924
1925
1926
1927
1928
1929
1930
1931
1932
1933
1934
1935
1936
1937
1938
1939
1940
1941
1942
1943
1944
1945
1946
1947
1948
1949
1950
1951
1952
1953
1954
1955
1956
1957
1958
1959

Sec. 56.4. Application of rates.

B. *Permit Received.* Those land uses which have received a development permit prior to January 1, 2017, shall be exempted from the rate increase contained in this Chapter. The City of Orlando shall not permit the extension of a development permit or application for a development permit beyond the standard time period for activation, under City of Orlando Code without the applicant complying with the provisions of this Chapter, which includes the assessment of a park impact fee based on those rates applicable at the time the permit is issued.

C. *Complete Application.*

D. If a previously City-approved development order, permit or other binding agreement contained conditions regarding park impacts, park impact fees and their designated uses, or off-site park improvements, the developer or his successor may request a modification of such prior approvals in order to bring the approval conditions into consistency with this Chapter, as amended. Any such modification of prior approvals and amendments to development orders so accomplished shall not be deemed a substantial deviation under F.S. Ch. 380.

E. If a previously City-approved development order or permit or other binding agreement provides for the mitigation of the park impacts of said land use and if the Director of Families Parks and Recreation, or his designee, determines that such park impact mitigation measures are substantially consistent with the requirements of this Chapter, as amended, then the park impact fee payable for such land use under this Chapter, as amended, shall be revised accordingly to reflect the presumed impact of said land use. There shall be a presumption that the park impact mitigation provisions of any development order or permit approved more than five (5) years prior to January 1, 2017 are not substantially consistent with the requirements of this Chapter, as amended. This subsection shall not apply where a City-approved development order provides that at such time as the City of Orlando adopts a park impact fee Chapter, thereafter the provisions and terms of the adopted impact fee Chapter will apply to the development project.

F. RESERVED

G. RESERVED

H. Any claim for the application of impact fee rates different from the rates in effect at the time of permit issuance, must be made in writing to the Park Impact Fee Coordinator no later than the time of application for a development permit. Any claim not so made shall be deemed waived.

I. Nothing in this Section shall operate to impair the rights or obligations contained in a binding agreement between the City of Orlando and a developer or successor-in-interest of land relating to said land and the payment of park impact fees. A developer or successor-in-interest of land, who is a party to such binding agreement, may apply to the City's Director of Families Parks and Recreation, in writing, at any time prior to issuance of a development permit for said land, for a determination of the application of impact fee rates.

1960
1961
1962
1963
1964
1965
1966
1967
1968
1969
1970
1971
1972
1973
1974
1975
1976
1977
1978
1979
1980
1981
1982
1983
1984
1985
1986
1987
1988
1989
1990
1991
1992
1993
1994
1995
1996
1997
1998
1999
2000
2001
2002
2003
2004
2005
2006
2007
2008
2009
2010

Sec. 56.4. Collection of funds.

A. Except as provided for in Sections XX.05 and XX.10 of this Chapter, the Park Impact Fee Assessment shall be due and payable at the time of issuance of the development permit for the residential use.

B. The park impact fee shall be collected by the Park Impact Fee Coordinator, or designee, and any administrative charges for said collection, shall be limited to the City's reasonable costs.

Sec. 56.4. Use of funds.

A. The funds collected by reason of establishment of the park impact fee in accordance with this Chapter shall be used solely for the purpose of administering, planning, acquisition, expansion and development of non-site related park improvements to the City's Park system determined to be needed to serve new land uses, including, but not limited to:

- (a) construction of recreation centers,
- (b) construction of playgrounds,
- (c) construction of basketball courts,
- (d) construction of drainage facilities in conjunction with park construction,
- (e) purchase and installation of lighting apparatus extending park hours/capacity,
- (f) construction of swimming pools,
- (g) construction of ball fields,
- (h) acquisition of land,
- (i) other improvements, as determined by the City's Director of Families Parks and Recreation, that add to the Park system's carrying capacity.

B. All funds shall be used exclusively within the Park Benefit Areas (See Exhibit B) from which they were collected and in a manner consistent with the principles set forth in State case and Statutes law, and otherwise consistent with all requirements of the Constitution of the United States and the State of Florida and all applicable laws. Said funds shall not be used to maintain or repair any existing park improvements.

C. *Interest on Funds.* Any funds on deposit not immediately necessary for expenditure shall be invested in interest-bearing accounts. All income derived shall be deposited in the applicable trust account.

D. The City of Orlando shall be entitled to retain an amount of \$50,000 or three percent (3%), whichever is greater, of the aggregate of annual, collected impact fees. The retained funds shall be utilized to offset the actual administrative costs associated with the collection and use of said funds that year pursuant to this Ordinance.

Sec. 56.4. Return of funds.

If it is determined by the City of Orlando that park impact fee assessments collected pursuant to this Chapter have not been spent or encumbered for expenditure by the end of the calendar quarter immediately following six (6) years from the date said fee was received, or if the land uses for which the fees were paid have been officially and formally abandoned and it has been six (6) years since the park impact fees were paid,

2011 then said funds shall be eligible for refund to the then present owner in accordance with
2012 the following procedures:

2013
2014 A. The then present owner must petition the City Council for the refund within one (1)
2015 year following the end of the calendar quarter immediately following five (5) years from
2016 the date on which the fee was received by the City. The petition must be submitted to
2017 the City's Director of Families Parks and Recreation and must contain:

2018 (1) a notarized sworn statement that the petitioner is the current owner of the
2019 development site;

2020 (2) a copy of the dated receipt issued for payment of the park impact fee;

2021 (3) a certified copy of the latest recorded deed;

2022 (4) a copy of the most recent ad valorem tax bill; and

2023 (5) such other information which may be reasonably necessary to ascertain current
2024 ownership of the development site.

2025
2026 B. Within sixty (60) days from the date of receipt of petition for refund, the City's Director
2027 of Families Parks and Recreation or designee shall advise the petitioner and the City
2028 Council of the status of the park impact fee requested for refund. For the purpose of
2029 determining whether said fees have been spent or encumbered, the first money placed
2030 in a trust fund account shall be deemed to be the first money taken out of that account
2031 when withdrawals have been made.

2032
2033 C. When the money requested is still in the trust fund account and has not been spent or
2034 encumbered by the end of the calendar quarter immediately following five (5) years from
2035 the date the fees where paid, the money shall be returned with interest at the rate of
2036 three percent (3%) per annum.

2037
2038 D. Any return of Park Impact Fees under this Section shall be reduced by three percent
2039 (3%) per annum on the applicable funds, to account for the City's administrative and
2040 processing costs.

2041
2042
2043 **Sec. 56.49. Periodic review.**

2044
2045 The parks impact fee must be reviewed by the Orlando City Council at least
2046 every five years. The review should consider changes to the inventory of parks and
2047 recreation facilities, the then-proposed parks capital improvements plan, service
2048 delivery, the unit costs of providing new parks and recreation facilities, population
2049 growth, trends in park and recreation facility use, and such other information useful to
2050 ensuring that the impact fee is fair and appropriate. The purpose of the review is to
2051 revise, if necessary, the parks impact fee charged to new development to ensure it will
2052 not exceed its pro rata share for the reasonably anticipated expansion costs of capital
2053 improvements for parks and recreation facilities necessitated by the new residential
2054 development.

2055
2056 **Sec. 56.50. Appeals.**

2057
2058 A. Any person desiring to appeal an administrative decision regarding a determination
2059 relating to the payment of park impact fees or credits shall file a written Notice of Appeal
2060 with the Park Impact Fee Coordinator. Said Notice shall be filed within thirty (30) days of
2061 the decision sought to be appealed. A required processing fee, as established from time-

2062 to-time by City Council, shall be submitted with the Notice of Appeal in order to defray
2063 actual administrative costs associated with processing the park impact fee appeals.

2064
2065 B. All Notices of Appeal shall include a full explanation of the reasons for the appeal,
2066 specifying the grounds therefor, and containing any documentation which the applicant
2067 desires to be considered. The appeal shall contain the name, address, phone number
2068 and email address of the person(s) filing the appeal and shall state their capacity to act
2069 as a representative or agent if they are not the owner of the property to which the park
2070 impact fees or credit(s) pertain.

2071
2072 C. Within thirty (30) days following the receipt of the written Notice of Appeal, the Park
2073 Planning Division Manager will review the Appellant's written report, supporting
2074 documentation and departmental staff reports. The thirty (30) day review period may be
2075 extended if additional information is needed from the Appellant in order to render a
2076 decision. Upon completion of the administrative review, the City's Director of Families
2077 Parks and Recreation will provide a written response to the Appellant.

2078
2079 D. Any person desiring to appeal the determination of the City's Director of Families
2080 Parks and Recreation shall file a written Notice of Appeal to the Chief Administrative
2081 Officer for the City within fifteen (15) days following receipt of the determination. Receipt
2082 shall be construed to have occurred when the administrative determination is deposited
2083 in the United States mail postage prepaid to the person whose name and address was
2084 identified in the original Notice of Appeal. Within thirty (30) days following actual receipt
2085 of the written Notice of Appeal, the Chief Administrative Officer or his/her designee will
2086 review the Appellants' written report, supporting documentation and departmental staff
2087 reports. Upon completion of the administrative review, the Chief Administrative Officer
2088 or designee will provide a written determination to Appellant.

2089
2090 E. Any person desiring to appeal the final administrative determination of the Chief
2091 Administrative Officer regarding the payment of park impact fees or credits shall file a
2092 written Notice of Appeal to City Council. Said Notice of Appeal to City Council shall be
2093 filed with the Chief Administrative Officer for the City within fifteen (15) days following
2094 receipt of the Chief Administrative Officer's final administrative determination. Receipt
2095 shall be construed to have occurred when the administrative determination is deposited
2096 in the United States mail postage prepaid to the person whose name and address was
2097 identified in the original Notice of Appeal.

2098
2099 F. All Notices of Appeal shall include a full explanation of the reasons for the appeal,
2100 specifying the grounds therefore, and containing any documentation which the applicant
2101 desires to be considered. The appeal shall contain the name, address, telephone
2102 number and email address of the person(s) filing the appeal and shall state their
2103 capacity to act as a representative or agent if they are not the owner of the property to
2104 which the park impact fees or credit pertain.

2105
2106 G. The City Clerk is responsible for scheduling park impact fee appeals before the City
2107 of Orlando City Council and will provide at least ten (10) days notice to the applicant of
2108 the date of the designated meeting. Postponements of the City Council appeal date may
2109 be granted by the City Clerk if they are requested in writing at least ten (10) days in
2110 advance of the scheduled City Council meeting date.

2111

2112 H. When an Appeal is scheduled for oral presentation before the City Council, the
2113 Appellant and the City staff shall each be given five (5) minutes at the oral argument to
2114 present the Appeal and to discuss the submitted written record.

2115
2116 **SECTION 3. CODIFICATION.** The city clerk and the city attorney shall cause
2117 the Code of the City of Orlando, Florida, to be amended as provided by this ordinance
2118 and may renumber, re-letter, and rearrange the codified parts of this ordinance if
2119 necessary to facilitate the finding of the law.

2120
2121 **SECTION 4. SCRIVENER’S ERROR.** The city attorney may correct scrivener’s
2122 errors found in this ordinance by filing a corrected copy of this ordinance with the city
2123 clerk.

2124
2125 **SECTION 5. SEVERABILITY.** If any provision of this ordinance or its
2126 application to any person or circumstance is held invalid, the invalidity does not affect
2127 other provisions or applications of this ordinance which can be given effect without the
2128 invalid provision or application, and to this end the provisions of this ordinance are
2129 severable.

2130
2131 **SECTION 6. EFFECTIVE DATE.** This ordinance takes effect upon adoption.

2132
2133 **DONE, THE FIRST READING,** by the City Council of the City of Orlando,
2134 Florida, at a regular meeting, the _____ day of _____, 2016.

2135
2136 **DONE, THE PUBLIC NOTICE,** in a newspaper of general circulation in the City
2137 of Orlando, Florida, by the city clerk of the City of Orlando, Florida, the _____ day of
2138 _____, 2016.

2139
2140 **DONE, THE SECOND READING AND PUBLIC HEARING, AND ENACTED ON**
2141 **FINAL PASSAGE,** by an affirmative vote of a majority of a quorum present of the City
2142 Council of the City of Orlando, Florida, at a regular meeting, the _____ day of
2143 _____, 2016.

2144
2145 BY THE MAYOR OF THE CITY OF
2146 ORLANDO, FLORIDA:

2147
2148
2149
2150 _____
2151 Mayor

2152 ATTEST, BY THE CLERK OF THE
2153 CITY COUNCIL OF THE CITY OF
2154 ORLANDO, FLORIDA:

2155
2156 _____
2157 City Clerk

2158
2159 _____
2160 Print Name

ORDINANCE NO. 2016-65

2163 THIS ORDINANCE DRAFTED BY AND
2164 APPROVED AS TO FORM AND LEGALITY
2165 FOR THE USE AND RELIANCE OF THE
2166 CITY OF ORLANDO, FLORIDA:

2167

2168

2169 _____
City Attorney

2170

2171

2172 _____
Print Name

2173

2174

[Remainder of page intentionally left blank.]