

AN ORDINANCE AMENDING CHAPTER 56, CITY CODE, TRANSPORTATION IMPACT FEE, BY AMENDING SECTION 56.04 BY ADDING DEFINITIONS; BY AMENDING 56.15, TO REDUCE EXEMPTIONS FOR SPECIFIED CHANGES IN LAND USE AND FOR TRANSIT ORIENTED DEVELOPMENTS; BY PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Orlando has previously formed a package of actions known as Strengthen Orlando to accelerate the development of projects and the construction of infrastructure to help generate economic activity within the City of Orlando; and

WHEREAS, part of that package was the provision of certain exemptions from the payment of transportation impact fees for changes to specified land uses and for transit oriented developments; and

WHEREAS, a reduction in the amount of the exemptions will continue to facilitate the development of small businesses and transit oriented developments within the City of Orlando, while at the same time, increasing the revenue available for funding public transportation projects.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ORLANDO, FLORIDA:

SECTION 1. SECTION 56.04, Code of the City of Orlando, is hereby amended as follows:

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)

- 1 acceleration and deceleration lanes;
- 2 (d) traffic control and signal devices, signage, and markings; and
- 3 (e) drainage and utilities; and
- 4 (f) transit bus pullouts.

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

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

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

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

23 *Arterial Roads:* A classification of roads which primarily functions to accommodate
24 the movement of relatively large traffic volumes for relatively long distances at relatively
25 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.

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

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

Capacity; Capacity Per Lane: The maximum number of vehicles for a given time
period which a typical new lane can safely and efficiently carry at a specified level of
service. For the purpose of this Chapter, the capacity of a typical new lane shall mean

1 8,000 vehicles per day per through lane at Level of Service "D" and 10,000 vehicles per
2 day per through lane at Level of Service "E."

3 *Capacity Per Lane Mile:* The product of the capacity per lane times one lane mile.
4 For the purpose of this Chapter, the capacity per lane mile of a typical new lane shall
5 mean 8,000 vehicles per day per through lane per mile at Level of Service "D" and
6 10,000 vehicles per day per through lane per mile at Level of Service "E."

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

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

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

15 *Development:* See Land Development.

16 *Development Permit:* Includes any building permit, having the effect of permitting
17 the construction or alteration of any building or structure or other vertical improvement
18 on the land.

19 *Development Site:* The property under consideration for development at the time of
20 application for a development permit.

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

23 *Encumbered:* Funds committed in a capital improvements program for a specified
24 improvement on a specified time schedule.

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

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

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

Housing, Low Income: Owner-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-
1A, and any amendments thereto.

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

3 *Impact:* The negative effect of additional vehicles and person miles of travel on a
4 roadway segment.

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

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

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

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

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

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

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

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

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

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

1 *Non-Site Related Improvements:* Transportation improvements, including rights-of-
2 way, which are necessary to provide safe and adequate travel service for the movement
3 of vehicular traffic and person miles of travel, including multimodal transportation
4 facilities, and which are in excess of or in addition to site related transportation
5 improvements. Non-site related improvements may include on-site or off-site
6 improvements to the transportation improvements network. The Transportation Impact
7 Fee formula contained in this Chapter is designed to calculate the costs inherent in the
8 construction of non-site related at-grade improvements to the transportation
9 improvements network.

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

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

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

20 Person Miles of Travel (PMT) = Vehicle Miles of Travel (VMT) X Conversion Factor
21 (Person/Vehicle)

22 *Transportation Impact Fee; Impact Assessment Fee:* The fee required to be paid in
23 accordance with this Chapter.

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

- (a) construction of the thru lanes,
- (b) construction of turn lanes,
- (c) construction of bridges,
- (d) construction of drainage facilities in conjunction with roadway construction,
- (e) purchase and installation of traffic signalization, signage and markings,

- 1 (f)
2 construction of curbs, medians and shoulders,
3 (g)
4 relocating utilities to accommodate roadway construction,
5 (h)
6 mass transit and other multimodal transportation projects,
7 (i)
8 pedestrian and bicycle improvements that are integrally related to transportation
9 improvements and serve to separate pedestrians and bicyclists from vehicles,
10 thus enhancing the carrying capacity of the transportation system, and
11 (j)
12 other improvements, as determined by the City's Transportation Planning Division
13 Manager, that add to the pedestrian or vehicle carrying capacity of the
14 transportation system.

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

16 *Site-Related Improvements:* Transportation improvements, including rights-of-way,
17 which are necessary to provide safe and adequate travel service for the movement of
18 vehicular traffic, including multimodal transportation facilities that reduce the amount of
19 vehicular traffic and person miles of travel, between the traffic-generating land uses
20 within the development site, between the development site and the major road network
21 and access improvements. Site-related improvements may include on-site or off-site
22 improvements to the transportation improvements network as necessary to access the
23 site or to connect the site to the closest point in the major road network. The
24 Transportation Impact Fee formula contained in this Chapter (gross square footage $\times$
25 $90\% \times 1,000 \times$ appropriate fee rate), which does not apply to land uses with a per unit
fee basis, is not intended to assess an amount that constitutes an approximation of the
costs to construct site related transportation improvements, therefore, an assessment
for or the construction of site related transportation improvements shall be considered
as an addition to the assessment calculated pursuant to the terms of this Chapter.

Square Feet: As referred to in the Transportation Impact Fee Rate Schedule
(Exhibit "A"), means total gross leasable square footage. Calculable square feet shall
include non-roofed areas which are contemplated to be used or leased in connection
with the land use (e.g. outdoor garden shop areas). These are areas integrally related
and customarily found in association with the land use including sales areas and stock
areas located on the same building site.

Structure: Anything constructed, erected or placed on the development site, the use
of which requires more or less permanent location on or in the ground or attached to
something having a permanent location on or in the ground.

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

1 Transit Oriented Development (TOD): A development site, as that term is defined in
2 this Section, designated through a development order or a parcel of record, any portion
3 of which is located within ¼ mile walking distance along a designated roadway from of a
4 premium transit stop or station (SunRail or LYMMO). Any portion of the designated site
5 or parcel that falls within the ¼ mile buffer may be considered for TOD status (see
6 Exhibit "C"). Walking distance shall be measured from the development site's nearest
7 property line to a premium transit stop or station utilizing a clear path of travel at least
8 five (5) foot in width, located on a separate surface from the roadway, such as a
9 designated sidewalk or multi-use trail. In calculating the distance for purposes of TOD,
10 temporary obstructions to the path of travel arising from construction projects shall be
11 ignored so long as the obstructed path of travel shall be restored upon completion of the
12 construction project.

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

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

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

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

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

28 (Ord. of 8-25-1986, Doc. #20552; Ord. of 6-6-1988, Doc. #22149; Ord. of 4-24-1989, Doc.
29 #22920; Ord. of 7-16-1990, Doc. #24073; Ord. of 11-28-1994, Doc. #28057; Ord. of 12-
30 16-1996, Doc. #29904; Ord. of 9-11-2006, § 1, Doc. #0609111005; Ord. of 8-30-2010, §
31 1, Doc. #1008301103; Ord. No. 2012-40, § 1, 10-22-2012, Doc. #1210221201; Ord. No.
32 2013-21, § 1, 5-6-2013, Doc. #1305061205)

33
34
35 **SECTION 2. SECTION 56.15, CITY CODE, IS HEREBY AMENDED AS
FOLLOWS:**

• **Sec. 56.15. - Exemptions.**

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

3 A.

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

5 B.

6 The construction of accessory buildings or structures or the addition of uses, to the extent that there is no increase in trip generation, with respect to the existing principal land use. For example, though not exclusively: (i) Construction of a detached garage (without a living unit), to a single family residential unit; (ii) construction of a shade structure with no services performed under it and no additional occupancy because of it; and (iii) up to 15% of warehouse (unit) floor area used for office but still assessed as warehouse space.

8 C.

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

11 1.

12 One hundred percent (100%) reimbursement/exemption of the transportation impact fees assessed for certified Affordable Housing units, if the certified Affordable Housing project meets the City's commuter criteria.

13 2.

14 Fifty percent (50%) reimbursement/exemption of the transportation impact fees assessed for certified Affordable Housing units if the certified 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.

16 3.

17 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.

18 4.

19 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.

21 D.

22 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.

24 E.

25 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 the provision of goods or services which are essential to the safe and efficient operation of the airport.

H.

For the period beginning April 11, 2011, any change, redevelopment, or modification of a land use that results in a commercial or industrial use which requires the issuance of a development permit, (i) provided that the proposed land use is consistent with the City's then current zoning and future land use designation for such property and (ii) to the extent that the size of the structure(s) is not increased or expanded and the footprint of the structure(s) is not altered. This exemption to payment of all or a portion of a Transportation Impact Fee for any change, redevelopment or modification of a land use is limited to (i) a maximum of twenty thousand dollars (\$20,000.00) and (ii) applicants for a development permit that constitute a Small Business as that term is defined by the City's Economic Development Department's Office of Business Assistance per the United States Small Business Administration's size standards, effective July November 2010. The exemption shall not apply to any development permits issued prior to April 11, 2011, including development permits which have been issued pursuant to an approved Transportation Impact Fee Payment Plan under Section 56.10(3), City Code and development permits which have [been] issued pursuant to an Alternative Transportation Impact Fee Calculation under Section 56.08, City Code. The exemption is non-transferable without the written consent of the City's Transportation Planning Division Manager or his/her designee and does not affect the City's authority to impose impact fees on future development of the property. The City's Transportation Planning Division Manager or his/her designee, shall, prior to October 1st of each year, review and analyze this subsection to determine if it remains necessary and in the public interest to facilitate economic development, based on generally accepted principles and data. If the Transportation Planning Division Manager determines that the exemption established by this subsection is not necessary and in the public interest to facilitate economic development, he or she shall make a recommendation to the City's Chief Administrative Officer that this subsection be amended to terminate or revise the exemption accordingly. Previously granted exemptions under this subsection shall be reviewed annually to ensure compliance with the terms and conditions of the application for development permit and the standards of the exemption. If any violation is found, the City shall be entitled to impose an impact fee on the property in the amount of the exemption.

I.

Any new development, or portion thereof, located on a development site which is defined as a Transit Oriented Development, "TOD," under this Chapter to the extent that the below criteria are met:

1.

The development site shall be composed of a compact, dense mixture of land uses, including residential, with the ground floor consisting of primarily (>50%) commercial active uses, as defined in this Chapter, deemed appropriate by the City Planning Official or designee, that are open to the public.

2.

Pedestrian facilities serving the development site shall meet or exceed City codes and policies.

3.

Bicycle facilities serving the development site shall meet or exceed City codes and policies.

4.

~~The number of parking spaces provided on the development site shall be reduced to the minimum number required by City Code, Chapter 61, Part 3.~~

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, ~~and approval.~~ 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. ~~If, and to the extent, the application is approved by the City's Transportation Planning Division Manager, an agreement shall be prepared between the City and the Developer for submittal to the Orlando City Council, (subject to the review of the City Attorney's Office), outlining the approved criteria and the amount of the Transportation Impact Fee reduction. No building permit shall be issued for the development or any portion thereof until the Orlando City Council has approved the agreement. The Transportation Impact Fee reduction shall be prorated in accordance with the number of qualifying criteria satisfied by the development. If the Transportation Planning Division Manager determines that all four criteria have been met, the development shall receive a twelve and one-half percent (12 1/2%)~~ Each of the five criteria, if met in full, shall merit a 20% reduction to the Transportation Impact Fees assessed against the development or portion thereof. 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.

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.

(Ord. of 8-25-1986, Doc. #20552; Ord. of 6-6-1988, Doc. #22149; Ord. of 7-16-1990, Doc. #24073; Ord. of 11-28-1994, Doc. #28057; Ord. of 12-16-1996, Doc. #29904; Ord. of 9-11-2006, § 1, Doc. #0609111005; Ord. of 4-13-2009, § 1, Doc. #0904131102; Ord. of 8-30-2010, § 9, Doc. #1008301103; Ord. No. 2011-17, § 2, 4-26-2011, Doc. #1104251101; Ord. No. 2012-8, § 2, 3-12-2012, Doc. #1203121202; Ord. No. 2012-40, § 1, 10-22-2012, Doc. #1210221201; Ord. No. 2013-21, § 2, 5-6-2013, Doc. #1305061205)

SECTION 3. SEVERABILITY. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or

1 applications of this ordinance which can be given effect without the invalid provision or
2 application, and to this end the provisions of this ordinance are severable.

3 **SECTION 4. CONFLICTS.** If in conflict with the exhibits to this ordinance, the text of
4 this ordinance controls. Previously adopted ordinances inconsistent with this ordinance are
5 hereby superseded by this ordinance to the extent necessary to fully effectuate the purpose and
6 intent of this ordinance.

7 **SECTION 5. SCRIVENER'S ERROR.** The City Attorney may correct scrivener's
8 errors found in this ordinance by filing a corrected copy of this ordinance with the City Clerk.

9 **SECTION 6. EFFECTIVE DATE.** This ordinance shall take effect ninety (90) days
10 after final passage.

11 **DONE, THE FIRST READING,** by the City Council of the City of Orlando, Florida, at
12 a regular meeting, this _____ day of _____, 2014.

13 **DONE, THE PUBLIC NOTICE,** in a newspaper of general circulation in the City of
14 Orlando, Florida, by the City Clerk of the City of Orlando, Florida, this _____ day of
15 _____, 2014.

16 **DONE, THE SECOND READING, AND ENACTED ON FINAL PASSAGE,** by an
17 affirmative vote of a majority of a quorum present of the City Council of the City of Orlando,
18 Florida, at a regular meeting, this _____ day of _____, 2014.

19 BY THE MAYOR/MAYOR PRO TEMPORE OF
20 THE CITY OF ORLANDO, FLORIDA:

21 _____
22 Mayor / Mayor Pro Tempore
23
24
25

1 ATTEST, BY THE CLERK OF THE
2 CITY COUNCIL OF THE CITY OF
3 ORLANDO, FLORIDA:

4 _____
5 City Clerk

6 APPROVED AS TO FORM AND LEGALITY
7 FOR THE USE AND RELIANCE OF THE
8 CITY OF ORLANDO, FLORIDA:

9 _____
10 Chief Assistant City Attorney
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