

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, DEFINITIONS, AND ESTABLISHING PARKS
6 IMPACT FEE FUNDS AND PARKS BENEFIT AREAS;
7 IMPOSING AN IMPACT FEE ON EACH NEW SINGLE FAMILY
8 AND EACH NEW MULTIFAMILY DWELLING UNIT IN THE
9 CITY; FURTHER PROVIDING FOR ALTERNATIVE IMPACT
10 FEE CALCULATIONS, CREDITS AGAINST IMPACT FEES,
11 AND EXEMPTIONS; ALSO PROVIDING FOR THE USE OF
12 FUNDS COLLECTED, THE RETURN OF CERTAIN FUNDS,
13 AND FOR APPEALS OF CERTAIN DETERMINATIONS;
14 PROVIDING ORGANIZATIONAL AMENDMENTS TO
15 CHAPTER 56; PROVIDING LEGISLATIVE FINDINGS, AND
16 FOR SEVERABILITY, CODIFICATION, CORRECTION OF
17 SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

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

25 **WHEREAS**, the GMP Vision Statement further provides that "[a]s 'The City
26 Beautiful', Orlando's vision is defined by a focus on its amenities. Key elements of that
27 vision are strong urban design; historic preservation; the availability and maintenance of
28 parks, recreation and open space...;" and
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30 **WHEREAS**, the GMP contains a Recreation and Open Space Element (the
31 "Recreation Element") that provides the city's goals, objectives, and policies relating to
32 parks, recreation, and open space, and a Capital Improvements Element (the "Capital
33 Improvements Element") that seeks to "provide and maintain, in an efficient and
34 balanced manner, public facilities and services which protect the public health, safety,
35 and welfare of its citizens, concurrent with the impacts of new development...."; and
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37 **WHEREAS**, Goal 1 of the Recreation Element is "[t]o provide for the recreation,
38 and open space needs of all of the city's current and future citizens."; and
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40 **WHEREAS**, Objective 1.1 of the Recreation Element provides that "[t]he City of
41 Orlando shall ensure that an adequate amount of park land and open space land is
42 available to the citizens of Orlando...;" and
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44 **WHEREAS**, Policy 1.1.1 of the Recreation Element provides a city-wide park
45 acreage level of service standard of 3.25 acres of combined "Community Park" and
46 "Neighborhood Park" per 1,000 population; and
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48 **WHEREAS**, Policy 1.1.1 of the Recreation Element also provides a level of
49 service standard for each Community Park and Neighborhood Park service area, with
50 each Community Park service area standard being 1.3 acres of park per 1,000

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

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

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

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

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

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

76
77 **WHEREAS**, Policy 2.2.19 of the Capital Improvements Element provides that
78 “[t]he parks and recreation LOS standards shall be applied through the application of the
79 following performance standards to ensure that parks and recreation facilities are in
80 place when the impacts of development occur:

- 81
- 82 1. Adequate park capacity exists to serve the residential
83 development; or
 - 84 2. The necessary capital improvements are guaranteed in a
85 development agreement which provides for the actual construction
86 to begin within one year from the issuance of a development
87 permit; or
 - 88 3. The necessary capital improvements are programmed in the
89 Capital Improvements Element for actual construction to begin
90 within one year from the issuance of a development permit.”; and
- 91
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94 **WHEREAS**, at subsection 163.31801, Florida Statutes, the Florida Legislature
95 finds that “impact fees are an important source of revenue for a local government to use
96 in funding the infrastructure necessitated by new growth,” and that “impact fees are an
97 outgrowth of the home rule power of a local government to provide certain services
98 within its jurisdiction.”; and

99
100 **WHEREAS**, the City Council of the City of Orlando, Florida (the “Orlando City
101 Council”), hereby finds that new residential development in the city requires additional

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

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

108
109 **WHEREAS**, the Orlando City Council hereby finds that new residential
110 development should pay a portion of the overall costs related to the additional parks and
111 recreation facilities needed to accommodate such new development; and

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

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

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

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

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

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

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152 **WHEREAS**, the Orlando City Council hereby finds that (1) the provisions of this
153 ordinance relating to adequate parks and recreational facilities, (2) the additional parks
154 and recreational facilities needed for new residential development, (3) the capital costs
155 relating to those additional parks and recreational facilities needed to serve the new
156 residential development, and (4) the impact fees necessitated by such capital costs, are
157 all based upon and supported by the analysis, findings, and recommendations of the
158 *City of Orlando Families, Parks and Recreation Vision Plan* dated January 2010 (the
159 “Parks Vision Plan”), and the *City of Orlando Families, Parks and Recreation Impact Fee*
160 *Study* dated August 2014 (the “Parks Impact Fee Study”); and

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

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

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

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

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180 **WHEREAS**, based on the preferred city-wide level-of-service-standard based fee
181 calculation methodology, the Parks Impact Fee Study recommended a total parks impact
182 fee of \$6,902.38 per single family dwelling unit and \$5,892.73 per multifamily dwelling
183 unit; and

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185 **WHEREAS**, the Orlando City Council hereby finds that while this recommended
186 fee is fair, reasonable, and is the appropriate fee necessary to maintain the city’s
187 currently existing service level of 12.66 acres of park per 1,000 population, that the
188 Council may, within the reasonable exercise of its legislative discretion, decide to
189 actually impose a lesser fee, recognizing that while such lesser fee may not, alone, fully
190 mitigate the impacts of growth on our parks system, that such lesser fee will substantially
191 contribute to maintaining a robust parks level of service while establishing a fee that is
192 competitive with parks impact fees of other nearby local governments and also being
193 sensitive to how impact fees can affect the affordability of new homes; and

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195 **WHEREAS**, the Orlando City Council hereby finds that an appropriate balancing
196 of these competing interests should result in an approximately 86% reduction in the
197 initial total parks impact fee recommended by the Parks Impact Fee Study, thus resulting
198 in an initial parks impact fee of \$966 per single family dwelling unit and \$825 per
199 multifamily dwelling unit (this legislatively-determined reduction is sometimes referred to
200 as a “policy discount”); and
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202 **WHEREAS**, the intent of the Orlando City Council is that impact fees imposed
203 pursuant to this ordinance be used to pay only for the capital costs associated with the
204 additional parks and recreation facilities required for new residential development in the
205 city; and
206

207 **WHEREAS**, the Orlando City Council hereby finds, based on the Parks Impact
208 Fee Study, that a reasonable relationship, or rational nexus, exists between the need for
209 additional parks and recreation facilities and the growth in population generated by new
210 residential development; and
211

212 **WHEREAS**, the Orlando City Council hereby finds, based on the Parks Impact
213 Fee Study, that a reasonable relationship, or rational nexus, exists between the
214 expenditure of the funds collected pursuant to this ordinance and the benefits of new
215 parks and recreation facilities accruing to new residential development; and
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217 **NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY**
218 **OF ORLANDO, FLORIDA, AS FOLLOWS:**
219

220 **SECTION 1. CH. 56, AMENDED.** Chapter 56, Code of the City of Orlando,
221 Florida, is hereby amended as follows:
222

223 **CHAPTER 56 – TRANSPORTATION IMPACT FEES**
224

225 **Part I – Transportation Impact Fee**
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227 ****

228
229 **Secs. 56.24 – 56.29. Reserved.**
230

231 **Part II – Parks Impact Fee**
232

233 **Sec. 56.30. Short title, authority, and applicability.**
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235 (a) This part shall be known and may be cited as the “Orlando Parks Impact
236 Fee Ordinance.”
237

238 (b) This ordinance is adopted pursuant to and in accordance with the
239 authority granted and limitations imposed upon the city by Article VIII,
240 Section 2(b), Florida Constitution, section 166.021, Florida Statutes, the
241 Florida Impact Fee Act (section 163.31801, Florida Statutes), Florida
242 case law relating to impact fees imposed by municipal governments, and
243 other applicable law of Florida and ordinances of the city.
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245 (c) This ordinance applies throughout the City of Orlando.
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247 **Sec. 56.31. Purpose, intent, and findings.**
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249 The purpose and intent of this ordinance, and the legislative findings supporting
250 this ordinance, are set forth in City Ordinance #2016-65 and are hereby incorporated
251 into this part as if fully set forth herein.
252

253 **Sec. 56.32. Definitions.**

- 254
- 255 (a) Applicant means the person, firm, or corporation seeking a building permit
- 256 for residential development.
- 257
- 258 (b) Director means the director of the City of Orlando Families, Parks and
- 259 Recreation Department, or his or her designee.
- 260
- 261 (c) Impact fee means the fee imposed by section 56.35 of this code. The fee
- 262 may also be referred to as the “parks impact fee,” the “parks and
- 263 recreation facilities impact fee,” or some other similar iteration of these
- 264 terms.
- 265
- 266 (d) Multifamily dwelling unit means a Two Family Dwelling or a Multi-Family
- 267 Dwelling as defined in Chapter 66 of this code.
- 268
- 269 (e) Park improvement means a physical asset, constructed or purchased,
- 270 with an expected useful life of at least five years and that is reasonably
- 271 necessary to provide a safe and adequate park in which the public may
- 272 recreate. Without limitation, the term includes recreation centers, pools,
- 273 playgrounds, playground equipment, park land, lights, fences, restroom
- 274 facilities, basketball courts, baseball and softball fields, stormwater and
- 275 other utility improvements, tennis courts, soccer fields, amphitheaters,
- 276 gardens, beaches, docks, trails, nature preserves, and open fields.
- 277
- 278 (f) Regional park means Lake Eola Park, Bill Frederick Park at Turkey Lake,
- 279 or Loch Haven Park.
- 280
- 281 (g) Residential development means the construction of any single family or
- 282 multifamily dwelling unit. For the purpose of this ordinance, “construction
- 283 of any single family or multifamily dwelling unit” includes the relocation of
- 284 any single family or multifamily dwelling unit.
- 285
- 286 (h) Single family dwelling unit means a One Family Dwelling as defined in
- 287 Chapter 66 of this code.

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289 **Sec. 56.33. Parks impact fee funds established.**

- 290
- 291 (a) There is hereby established a separate parks impact fee fund for each of
- 292 the three parks benefit areas established by section 56.34 of this
- 293 ordinance. Impact fee revenues must be deposited into the fund that
- 294 corresponds with the location of the proposed residential development
- 295 from which the respective fees were derived.
- 296
- 297 (b) Funds withdrawn from the parks impact fee fund may be used only in
- 298 accordance with this ordinance.

299

300 **Sec. 56.34. Parks benefit areas established.**

- 301
- 302 (a) There is hereby established three parks benefit areas in the City of
- 303 Orlando, one to be known as the “North Parks Benefit Area,” another as

the “Southeast Parks Benefit Area,” and the third as the “Southwest Parks Benefit Area.”

(b) All land within the jurisdictional boundaries of the city is contained within a parks benefit area. Where the boundary of a parks benefit area crosses an existing or proposed park or recreation facility, the divided park or recreation facility shall be considered wholly within both of the parks benefit areas. Where a residential development crosses the boundary of a parks benefit area, the divided residential development shall be considered 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, and time of payment.

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

For each single family dwelling unit -	\$966
For each multifamily dwelling unit -	\$825

(b) Except as permitted by subsection 56.35(c), the parks impact fee imposed by this ordinance on new residential development must be paid as a condition of the issuance of a building permit for the respective residential unit or units. For the purpose of this section, a “building permit” means a building permit issued pursuant to the Florida Building Code and includes building permits for the construction of building foundations only.

(c) At the option of the applicant, the parks impact fee may be paid in installments, with half of the due impact fee being paid before the issuance of the respective building permit, and the remaining half being paid before the issuance of the respective residential development’s certificate of occupancy (or functional equivalent). Where a residential development will be permitted by multiple certificates of occupancy, the second installment of the parks impact fee must be paid before the first certificate of occupancy is issued for the development.

Sec. 56.36. Presumption of maximum impact.

Proposed residential development is presumed to have the maximum incremental impact on the city’s park system as such impact is determined by the Parks Impact Fee Study.

Sec. 56.37. Credits.

Credit against the parks impact fee is available as follows:

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- (a) Demolition, relocation, or cessation of use. Persons responsible for the demolition, relocation, or cessation of a residential use are entitled to credit against their subsequent parks impact fee liability, but the credit must be used within 10 years of issuance and a written request for the credit must be delivered to the director within three years of the demolition, relocation, or cessation of use. Credit shall be issued in writing by the director and must equal the then-applicable impact fee rate times the number of demolished, relocated, or abandoned residential units. Credit may be transferred to successors in interest to the land where the demolition, relocation, or abandonment occurred, but may not be transferred for use on other property.
- (b) Developer improvements. Applicants are entitled to credit against their parks impact fee liability in an amount equal to the value of park improvements contributed to the city, provided that:
1. The park improvement is consistent with the GMP; and
 2. The park improvement was required by the city as a condition of approval of a land development order or permit; and
 3. The proposed park improvement is reviewed and accepted by the director; and
 4. For a contribution of land, the land is at least five acres in size or, if less than five acres, the land is for a specialty park such as a trail segment, pocket park, or a park adjacent to a body of water; and
 5. The park improvement is made directly by the applicant; and
 6. The city and the applicant enter into a parks impact fee credit agreement setting forth the terms and conditions of the credit, including without limitation, the valuation of the contributed park improvements, the assignability of credits, the timing of contributions, and the expiry of credits. Agreements entered into pursuant to this paragraph must be approved by the Orlando City Council before any park improvement is contributed to the city. The agreement may provide for execution by mortgagees, lienholders, or contract purchasers in addition to the applicant, and may permit any party to record the agreement in the official records of Orange County. The Orlando City Council may approve an agreement pursuant to this section only if finds that the agreement will fairly apportion the costs associated with providing new parks and recreation facilities consistent with Florida law relating to impact fees. Recognizing the extraordinary staff time involved with reviewing a proposed credit agreement, Council may, by resolution, establish an appropriate fee for the submission of credit proposals pursuant to this paragraph.

Sec. 56.38. Exemptions, discounts.

406 (a) Where a building permit is required for the rehabilitation, renovation, or
 407 redevelopment of an existing residential development, the applicant shall
 408 not be liable for the parks impact fee for each existing residential dwelling
 409 unit, but must pay the impact fee for each new residential unit, if any,
 410 developed as part of the rehabilitation, renovation, or redevelopment
 411 project. A residential unit is considered "existing" for purpose of this
 412 section if it was actually used for residential purposes for at least six
 413 months within 10 years of the issuance of the building permit for the
 414 rehabilitation, renovation, or redevelopment. The applicant is responsible
 415 for providing competent substantial evidence of the actual residential use
 416 of each unit. Such evidence may include, without limitation, utility records,
 417 building plans, leases, mail addressed to the dwelling unit or units, and
 418 sworn statements from past residents.

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 420 (b) Affordable housing. The impact fee shall be discounted for certified
 421 affordable housing, as defined by Chapter 67 of this Code, as follows:

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 423 1. By 100% if the affordable residential development is located wholly
 424 inside a Community Park service area (or areas) and a Neighborhood
 425 Park service area (or areas) that are operating at or above the city's
 426 respective adopted level of service. For purposes of this paragraph, the
 427 level of service shall be measured at the time that the first building permit
 428 is issued for the proposed residential development and the measurement
 429 must include the new residential units of the proposed affordable
 430 residential development.

431
 432 2. By 50% if the affordable residential development is located within any
 433 part of a Community Park service area (or areas) or a Neighborhood Park
 434 service area (or areas) that are operating below the city's respective
 435 adopted level of service. For purposes of this paragraph, the level of
 436 service shall be measured at the time that the first building permit is
 437 issued for the proposed residential development and the measurement
 438 must include the new residential units of the proposed affordable
 439 residential development.

440
 441 **Sec. 56.39. Alternative impact fee.**

442
 443 In lieu of paying the fee imposed by section 56.35 of this ordinance, an applicant
 444 may propose and pay an alternative impact fee if such alternative fee is approved by the
 445 Orlando City Council in accordance with this section and the purpose and intent of this
 446 ordinance. Alternative impact fees must be approved by agreement between the city and
 447 the applicant. The purpose of this section is to provide a mechanism for setting a lawful
 448 and fair impact fee where an impact fee rate different from that which is established in
 449 section 56.35 of this ordinance is necessitated by the unique characteristics of a
 450 proposed residential development. An alternative impact fee agreement must be
 451 supported by a study conducted by a professional with experience in impact fee
 452 calculations. The alternative impact fee study and the derived alternative impact fee may
 453 not apply any kind of discount as is applied to the impact fee imposed by section 56.35
 454 of this ordinance (sometimes referred to as a "policy discount"). The study must be
 455 delivered to the director at least 60 days before a building permit is issued for the

456 respective residential development. The study and agreement may include, but is not
 457 limited to provisions that:

- 458
- 459 (a) Modify the presumption of maximum impact as provided by section 56.36
 460 of this ordinance. In doing so, the study or agreement must specify the
 461 unique characteristics of the proposed residential development that
 462 justifies a modified presumption of impact. The agreement must provide
 463 sufficient remedies for ensuring that the residential development
 464 substantially maintains the unique characteristics justifying the modified
 465 presumption of impact.
- 466
- 467 (b) Provides an impact fee that differs from that rate imposed by section
 468 56.35 of this ordinance if the alternative rate is supported by competent
 469 substantial and the most localized and recent planning and economic
 470 data then currently available.
- 471
- 472 (c) In lieu of the requirements relating to the time of payment provided in
 473 section 56.35 of this ordinance, provides a schedule and method of
 474 payment for the alternative impact fee that is appropriate to the unique
 475 characteristics of the proposed residential development. The applicant
 476 must provide the city, in a form acceptable to the Orlando City Council,
 477 security ensuring payment of the impact fee within 90 days of issuance of
 478 the residential development's first certificate of occupancy, which security
 479 may be in the form of a cash bond, surety bond, an irrevocable letter of
 480 credit, negotiable certificate of deposit or escrow account, or a lien or
 481 mortgage on land subject to the applicable certificate or certificates of
 482 occupancy.

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484 Agreements entered into pursuant to this section must be approved by the
 485 Orlando City Council before any building permit is issued for the respective residential
 486 development. The agreement may provide for execution by mortgagees, lienholders, or
 487 contract purchasers in addition to the applicant, and may permit any party to record the
 488 agreement in the official records of Orange County. The Orlando City Council may
 489 approve an agreement pursuant to this section only if finds that the agreement will fairly
 490 apportion the costs associated with providing new parks and recreation facilities
 491 consistent with Florida law relating to impact fees. Recognizing the extraordinary staff
 492 time involved with reviewing a proposed alternative impact fee study and agreement,
 493 Council may, by resolution, establish an appropriate fee for the submission of studies
 494 pursuant to this section.

495

496 **Sec. 56.40. Application of rates.**

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498 The impact fee imposed by section 56.35 of this ordinance applies only to
 499 residential development receiving a building permit on or after March 1, 2017, except
 500 that residential development having received a building permit for foundation work only
 501 is hereby made exempt from the impact fee even if a building permit for vertical work is
 502 issued on or after March 1, 2017.

503

504 **Sec. 56.41. Use of funds.**

505

506 (a) Impact fee funds may be used only for park improvements. Park
507 improvements do not include operating costs associated with parks and
508 recreation facilities and does not include routine maintenance of parks
509 and recreation facilities, but may include the enlargement or substantial
510 renovation or improvement of a park or recreation facility if such
511 enlargement or substantial renovation or improvement substantially
512 improves the service capacity of the park or facility. Impact fee funds may
513 be used for costs associated with the planning, design, permitting,
514 acquisition, purchase, expansion, or construction of park improvements.
515

516 (b) Funds withdrawn from the three parks impact fee funds may be used only
517 for park improvements within the parks benefit area that corresponds with
518 the respective impact fee fund, except that park improvements to a
519 regional park may be funded in part, or in whole, by impact fee funds
520 derived from any one or more of the three parks impact fee funds without
521 regard for the location of the regional park.
522

523 **Sec. 56.42. Return of funds.**
524

525 Impact fees collected pursuant to this ordinance shall be returned to the then-
526 present owner of a residential development if the respective impact fee funds have not
527 been spent or encumbered within five years of being paid or if the respective residential
528 development was abandoned after the fee was paid but before a certificate of occupancy
529 was issued for the respective residential development, if:
530

531 (a) The then-present owner petitions the director for the refund within one
532 year of the end of the five-year term (during which the impact fees were
533 not spent or encumbered) or of abandonment of the residential
534 development.
535

536 (b) The petition contains:
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538 1. A notarized sworn statement that the petitioner is the current owner of
539 the property; and
540

541 2. A copy of the dated receipt issued by the city for payment of the impact
542 fee; and
543

544 3. A certified copy of the latest recorded deed for the applicable property;
545 and
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547 4. A copy of the most recent ad valorem tax bill for the applicable
548 property.
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550 The director shall render a written decision on the petition within 60 days of
551 receiving the petition. For purposes of determining whether impact fees have been spent
552 or encumbered, the first money place in an impact fee fund shall be deemed to be the first
553 money withdrawn from that account when withdrawals have been made pursuant to
554 section 56.42 of this ordinance. Funds returned to a petitioner shall be returned with the
555 actual interest earned while deposited in the impact fee fund.

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Sec. 56.43. Periodic review.

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

Sec. 56.44. Appeals.

This ordinance shall be implemented by the director. In cases of uncertainty, or where the application of this ordinance to any particular person requires an interpretation of this ordinance (or an interpretation of any plan, study, or other document on which this ordinance relies), the director shall be responsible for such interpretation. Upon written request of an applicant, the director shall render a written determination on any question of implementation or interpretation. Applicants may appeal written determinations of the director to the city's chief administrative officer. A notice of appeal must be filed with the chief administrative officer within 15 days of the director's determination. The chief administrative officer shall hold a hearing on the appeal within 20 days of the notice of appeal and he or she may consider any probative evidence provided by the applicant or the director. The chief administrative officer should give substantial deference to the determinations of the director and shall render a final decision within 15 days of the hearing. The decision of the chief administrative officer is hereby made the city's final agency action on the applicant's request for a determination.

SECTION 2. CODIFICATION. The city clerk and the city attorney shall cause the Code of the City of Orlando, Florida, to be amended as provided by this ordinance and may renumber, re-letter, and rearrange the codified parts of this ordinance if necessary to facilitate the finding of the law.

SECTION 3. SCRIVENER'S ERROR. The city attorney may correct scrivener's errors found in this ordinance by filing a corrected copy of this ordinance with the city clerk.

SECTION 4. 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 applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 5. EFFECTIVE DATE. This ordinance takes effect upon adoption.

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

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

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

BY THE MAYOR OF THE CITY OF ORLANDO, FLORIDA:

Mayor

ATTEST, BY THE CLERK OF THE CITY COUNCIL OF THE CITY OF ORLANDO, FLORIDA:

City Clerk

Print Name

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

City Attorney

Print Name

[Remainder of page intentionally left blank.]