

AN ORDINANCE AMENDING CHAPTER 56, CITY CODE, TRANSPORTATION IMPACT FEE, SECTIONS 56.01 THROUGH 56.23; PROVIDING FOR AN INCREASE IN THE FEE RATE SCHEDULE; PROVIDING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ORLANDO
FLORIDA:

SECTION ONE: Sections 56.01 - 56.23 of CHAPTER 56 of the Code of the City of Orlando be, and the same is hereby, amended as follows:

Sec. 56.01

Chapter 56 TRANSPORTATION IMPACT FEE*

***Editor's note:** An ordinance repealed former ch. 56, entitled "Trailers," on 6-24-1985, Doc. #19553.

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Sec. 56.01. Short Title, Authority and Applicability.

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

B. The planning for new and expanded roads and related 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 City under Florida Statutes § 163.3161 et seq., as amended by Laws of Fla. ch. 85-55, Florida Statutes ch. 166, various special acts relating to the power of the City of Orlando undertaking zoning, planning and development activities, and is in the best interest of the health, safety, and welfare of the citizens of the City.

(Ord. of 8-25-1986, Doc. #20552; Ord. of 7-16-1990, Doc. #24073)

Sec. 56.02. Intent and Purpose.

A. This 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.

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 roads and related transportation improvements needed to serve new growth and development is the responsibility of the City in order to carry out the traffic

circulation element of its Comprehensive Plan, as amended and adopted under 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. The purpose of this 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 roadway improvements, and related transportation improvements.

D. It is not the purpose of this 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 Chapter has approached the problem of determining the transportation impact fee in a conservative and reasonable manner. This 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.

E. The technical data, findings and conclusions herein are based on the Comprehensive Plan, as amended, of the City of Orlando and in part on the following studies and reports: Orange, Osceola and Seminole Counties Statistical Data 1980-2005; Orlando Modified Trend Data 1980-2005; Orlando Urban Area Transportation Study--Year 2005 Long Range Transportation Plan promulgated by the Orlando Urban Area Metropolitan Planning Organization; Orlando Thoroughfare Plan Study; current transportation modeling software; Orange County Five-Year Transportation Impact Assessment Program dated December 9, 1985; the current standardized ITE Trip Generation Report: current Florida Department of Transportation, Transportation Costs Handbook, current standardized Florida Department of Transportation "per lane mile standard construction costs" calculation; the Transportation Research Board's 1985 Highway Capacity Manual--Special Report 209; City of Orlando International Drive Transit Service Area Study; and the City of Orlando Growth Management Program comprehensive planning reports and land development regulations as adopted by the Orlando City Council.

(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)

Sec. 56.03. Rules of Construction.

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

A. In case of any difference of meaning or implication between the text of this Chapter and any caption, illustration, summary table or illustrative table, the text shall control.

B. The word "shall" is always mandatory and not discretionary; the word "may" is permissive.

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

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

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

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

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

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

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

G. Where a road right-of-way is used to define benefit area boundaries, that portion of the road right-of-way demarcating the boundary may be considered as part of either or both benefit areas it bounds.

(Ord. of 8-25-1986, Doc. #20552)

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.
- (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.

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.

Building: Any permanent structures designed or built for the support, shelter or protection of persons, animals, chattels 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 8,000 vehicles per day per through lane at Level of Service "D" and 10,000 vehicles per day per through lane at Level of Service "E."

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

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

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

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

Development: See Land Development.

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

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

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

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

Expansion: Road and intersection 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.

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

Impact: The negative effect of additional vehicles on a roadway segment.

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

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

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

Land Use, Traffic Generating: Proposed land use that attracts or produces vehicular trip(s) over and above that produced by the existing land use.

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

Level of Service "E": This level of service represents traffic operation near the roadway capacity or maximum service volume. Vehicles flow at unstable conditions. 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.

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

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

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

Non-Site Related Improvements: Transportation improvements, including rights-of-way, which are necessary to provide safe and adequate travel service for the movement of vehicular traffic, and which are in excess of or in addition to site related transportation improvements. Non-site related improvements may include on-site or off-site improvements to the road network. The

Transportation Impact Fee formula contained in this Chapter is designed to calculate the costs inherent in the construction of non-site related at-grade improvements to the road network.

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

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

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

Transportation Improvements: A physical asset, constructed or purchased, that is 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,
- (f) construction of curbs, medians and shoulders, and
- (g) relocating utilities to accommodate roadway construction.
- (h) mass transit projects
- (i) pedestrian improvements that are integrally related to transportation improvements and serve to separate pedestrians from vehicles, thus enhancing the carrying capacity of the transportation system.
- (j) other improvements, as determined by the City's Director of Transportation, that add to the pedestrian or vehicle carrying capacity of the transportation system.

Road Network: (See Major Road Network.)

Site-Related Improvements: Transportation improvements, including rights-of-way, which are necessary to provide safe and adequate travel service for the movement of vehicular traffic between the traffic-generating land uses within the development site, between the development site and the major road network and access improvements. Site-related improvements may include on-site or off-site improvements to the road network as necessary to access the site or to connect the site to the closest point in the major road network. The Transportation Impact Fee formula contained in this Chapter 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 Schedule, 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.

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

Trip Generation: The attraction or production of trips caused by and associated with a given type or classification of land use.

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

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

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

(Ord. of 8-25-1986, Doc. #20552; Ord. of 6-6-1988, Doc. #22149; Ord. of 4-24-1989, Doc. #22920; Ord. of 7-16-1990, Doc. #24073; Ord. of 11-28-1994, Doc. #28057; Ord. of 12-16-1996, Doc. #29904)

Sec. 56.05. Limitations on Issuance of Development Permits.

Any person who applies for the issuance of a development permit for a traffic generating land use shall be required to pay a transportation impact fee in the manner and amount set forth herein.

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

Except as provided elsewhere in the Chapter, no person shall operate from, conduct business, reside, or utilize any traffic generating land use unless and until the transportation impact fee required by this Chapter has been paid and a development permit has been issued.

(Ord. of 8-25-1986, Doc. #20552; Ord. of 7-16-1990, Doc. #24073)

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 fee rate schedule 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.

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. 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, 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 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 sub paragraphs D, and E, as applicable.

G. In order to take advantage of sub-paragraphs D, E, or F (above) and pay transportation impact fees only for the net increase in the traffic-generating land use, 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.

H. Any claim of existing or previous use must be made no later than the time for application for a development permit. Any claim not so made shall be deemed invalid.

I. When an application for a development permit has been submitted for a land use, which:

(1) includes ground floor retail as an auxiliary or secondary use within a mixed-use building; and
(2) the ground floor retail use was "required" by the City as a condition of development approval in order to achieve Growth Management Plan objectives; and

(3) the primary use, more than sixty-six percent (66%) of the total floor area, of the mixed-use building is office or multi-family residential; and

(4) then to the extent that the ground floor retail use is required by the City as a condition of development approval, the transportation impact fee assessment for the required retail use is

calculated by multiplying the Discounted Impact Fee Rate per 1,000 square feet for the primary land use category by the floor area of the required retail use.

J. In the event that an applicant for a development permit or the City of Orlando contends that the land use for which the development permit is proposed is not within the above categories or fits within a different category, then the Director of Planning and Development, or his designee shall, after consultation with the Director of Transportation, make a determination as to the appropriate land use designation which is consistent with current practices to add land use categories of general applicability to the Fee Rate Schedule following submission to City Council.

In addition, either the City or the applicant can propose actual studies or surveys in order to calculate the most appropriate fee rate. Such determination may be appealed to the City Council of the City of Orlando for a final determination.

(Ord. of 8-25-1986, Doc. #20552; Ord. of 7-16-1990, Doc. #24073; Ord. of 11-28-1994, Doc. #28057; Ord. of 12-16-1996, Doc. #29904)

Sec. 56.07. Transportation Impact Fee Rate Schedule.

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

A. Transportation Impact Fee Rate Schedule: See Composite Exhibit "A" The Transportation Impact Fee Rate Schedule shall be effective as of January 1, 2007, and shall be based on the most recent and localized data.

Resolutions establishing transit service districts will be adopted by City Council.

B. The total transportation impact fee for a specified type of land use is calculated by multiplying the Discounted Impact Fee Rate for the specified type of land use by the number of units of development of the specified type of the land use.

C. To account, in part, for the effects of inflation on the costs of right-of-way, design and road construction, the City's Transportation Department shall index the transportation impact fee rate annually, beginning January 1, 2007 and, subject to City Council's approval as described herein, to be applied beginning October 1, 2008, including accrued indexing amounts, to reflect the published costs for these items in the most recent version of the Florida Department of Transportation's *Transportation Costs Handbook*. The construction cost shall represent the average of the percentage increase of the construction costs published in the handbook for new 2-lane road, new 4-lane road, widening a 2-lane road to a 4-lane road and widening a 4-lane road to a 6-lane road, as reviewed by the City's Director of Transportation, to confirm the reasonableness of the rates. Based on the reference data and methodology contained in this subsection, the City's Transportation Department shall submit a request for the proposed indexing of the Transportation Impact Fee as a separate item in the Department's annual budget submittal to City Council. If City Council approves the proposed indexing of the impact fee rate as a part of the Department's budget submittal, the City's Director of Transportation shall prepare a resolution for City Council approval, adopting the new impact fee rate(s). To make the new impact fee rates effective, the resolution must be adopted prior to October 1st. If City Council does not adopt the proposed indexing of impact fee rate(s) by October 1st, of any particular year, the impact fee rate for the previous year remains in full force and effect. City shall provide ninety (90) days notice prior to the effective date of a new or amended impact fee rate.

(Ord. of 8-25-1986, Doc. #20552; Ord. of 1-11-1988, Doc. #21784; Ord. of 7-16-1990, Doc. #24073; Ord. of 11-28-1994, Doc. #28057; Ord. of 12-16-1996, Doc. #29904)

Sec. 56.08. Alternative Impact Fee Calculation.

A. In the event an applicant believes that the transportation impacts of his land use on the road network will be less than standards in this Chapter, the applicant may submit an alternative fee calculation to the Director of Transportation, or his designee, pursuant to the provisions of this section. If the Director of Transportation, or his designee, finds that the data, information and assumptions used by the applicant to calculate the alternative impact fee satisfy the requirements of this section, the alternative transportation impact fee shall be deemed the transportation impact fee due and owing for the proposed land use.

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

(1) Calculation of New Miles of Travel:

$$NMT = (TGR)(TGF)(ATL)(NTF)$$

TABLE INSET:

NMT = New Miles of Travel for the land use.

TGR = Trip Generation Rate in average daily trip ends generated per unit of development.

TGF = Trip Generation Factor. The percentage of average daily trips, expressed as a decimal, that constitute new or additional vehicle trips added to the road network. This factor is used to adjust the trip generation rates which are typical for isolated single-use suburban locations to reflect site specific conditions, such as the increased availability and use of public transportation and increased walk trips due to the combination of uses in multi-use projects or the proximity of other developments.

ATL = Average Trip Length

NTF = New Travel Factor. The percentage of traffic or vehicle miles of travel, expressed as a decimal, that constitute new or additional vehicle traffic added to the road network. This factor is used to adjust the new miles of travel for "passer-by" or diverted trips already on the road network.

(2) Calculation of New Lane Miles of Travel:

$$NLM = (NMT)/[(2)(CAP)]$$

TABLE INSET:

NLM = New Lane Miles of Travel for a specific land use.

NMT = New Miles of Travel.

2 = A constant that assigns one half (1/2) of the new land miles of travel to the land development(s) at the other end of the trip(s).

CAP = Typical new capacity per lane mile expressed in vehicles per day. The typical new capacities reflect an adjustment for capacity at Level of Service "D" for the portion of travel or trips outside of Metropolitan Activity Centers and capacity at Level of Service "E" for the portion of travel or trips inside Metropolitan Activity Centers (Areas zoned AC-3, AC-3A).

(3) Calculation of the Base Impact Fee Rate:

$$BFR = (NLM)(\$CC)$$

TABLE INSET:

BF
R = Base Impact Fee Rate for the land use.

NL
M = New Lane Miles of Travel.

\$C
C = Typical construction cost, including right-of-way, for one lane mile of an at-grade roadway.

(4) Calculation of Revenue Credit Rate:

$$RCR = MFC + LFC$$

TABLE INSET:

RC
R = Revenue Credit Rate for Motor Fuel Tax and License Fee Revenue payments for the land use. Fixed per annual adjustment by City Council.

M
FC = Motor Fuel Tax Credit. The present value of the portion of the motor fuel tax payments that fund road improvements.

LF
C = License Fee Revenue Credit. The present value of the portion of the license fee revenue payments that fund road improvements.

(5) Calculation of Net Impact Fee Rate:

$$NFR = BFR - RCR$$

TABLE INSET:

NFR = Net Impact Fee Rate for the land use.

BFR = Base Impact Fee Rate for the land use.

RCR = Revenue Credit Rate.

(6) Calculation of Discounted Impact Fee Rate:

$$DFR = (NFR)(NAF)(PDF)$$

TABLE INSET:

D
F = Discounted Impact Fee Rate for the land use.

R

N

F = Net Impact Fee Rate.

R

N = Network Adjustment Factor. The percentage of travel on the road network, expressed as a

A decimal, to be included in the calculation of the road impact fee. A road impact fee adjustment factor for optional use by City Council. Fixed by City Council per annual adjustment.

P Policy Discount Factor. The percentage of the Net Impact Fee Rate, expressed as a decimal, to be included in the calculation of the Road Impact Fee. A Road Impact Fee adjustment factor for optional use by City Council. Fixed by City Council per annual adjustment.

(7) Calculation of Discounted Impact Fee:

$$DIF = (DFR)(\#DU)$$

TABLE INSET:

DIF = Discounted Impact Fee for the land use.

DFR = Discounted Impact Fee Rate.

#DU = Number of Units of Development for the land use.

C. Data, Information and Assumption Requirements. The alternative transportation impact fee calculations shall be based on data, information or assumptions contained in this Chapter or independent sources, provided that:

(1) The independent source is an accepted standard source of transportation engineering or planning data, or

(2) The independent source, is based on actual studies or surveys conducted in the Orlando Urban Area, or with the specific approval of the Director of Transportation, or his designee, in other urban areas and carried out by a qualified transportation planner or engineer pursuant to an accepted methodology of transportation planning or engineering.

D. A determination by the Director of Transportation, or his designee, that the alternative calculation does not satisfy the requirements of this section may be appealed to the City Council of the City of Orlando within thirty (30) days of receipt of written notification, filed with the Chief Administrative Officer for the City.

E. Since processing of independent impact fee calculations involves significant City Staff time, the development permit 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 transportation impact fee, or (2) arrange for the escrow of payment subject to alternative transportation impact fee calculation as set forth below at the date of application for the development permit. Any claim

not so made shall be deemed waived and the rate schedule in Section 56.07 shall apply. Eligible applicants shall submit the alternative impact fee calculation with the appropriate application fee, site impact traffic study fee, and supporting documentation, in accordance with the listed schedule of permitting fees as amended from time to time. Prior to submitting an application herein, the applicant shall meet with the Transportation Impact Fee Coordinator to clarify the methodology and data required by the City.

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

G. The Director of Transportation may initiate studies to calculate alternative impact fees pursuant to this Section, when he believes that the transportation impacts of a land use or uses will be less than the standards in this chapter. In that event, the independent alternative transportation 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.

(Ord. of 8-25-1986, Doc. #20552; Ord. of 7-16-1990, Doc. #24073; Ord. of 11-28-1994, Doc. #28057; Ord. of 12-16-1996, Doc. #29904)

Sec. 56.09. Presumption of Maximum Impact.

A land use is presumed to have the maximum transportation impact on the road network. The proposed land use for which an application for a development permit has been filed shall be presumed to generate the maximum number of average daily vehicle trips, vehicle miles of travel and lane miles of travel to be generated by the most appropriate land use category(s) as determined by the Director of Transportation, or his designee.

(Ord. of 8-25-1986, Doc. #20552; Ord. of 7-16-1990, Doc. #24073; Ord. of 11-28-1994, Doc. #28057)

Sec. 56.10. Agreements.

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

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

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

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

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

a. Cash bond.

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

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

2. Only if the greater of fifty percent (50%) of the transportation impact fee assessed or the amount of the fee not in dispute is paid in cash, then a Letter of Credit may be used as security for the balance. Security for the balance of the transportation impact fee assessed by the City

must be in the form of an Irrevocable Letter of Credit directly payable to the City and placed in escrow, pursuant to subsection B below. A Letter of Credit cannot be used to post security for the full amount of the transportation impact fee payment.

3. Letters of Credit having a provision for expiration must specify a date of expiration that shall occur no later than ten (10) City business days following the latest contingency date provided for in the Escrow Agreement.

4. Letter(s) of Credit shall only be allowed when the applicant desires to undertake an alternative transportation impact fee calculation (see A.(1) above) for the determination of the appropriate transportation impact fee due from the proposed project or in cases of credit (see A.(2) above), which permit or recognize the construction of specific transportation improvements in lieu of or with a credit against the transportation impact fee assessable.

5. In lieu of negotiating and drawing on the Letter of Credit, the City's escrow agent shall have the right, after determination of the transportation impact fee amount with respect to the subject property, to collect any additional sums due directly from the developer. In the event such sums are paid in cash directly from the developer to the City's escrow agent, for subsequent disbursement to the City, then the City's escrow agent shall return the Letter of Credit to the issuing bank for cancellation.

c. An Immediately Funded Escrow Account.

(4) Assignment. Provide for a transfer of credits as provided for in Section 56.11 of this Chapter to any successor in interest of land. An executed Credit Agreement which authorizes assignment of credits does not require a separate assignment agreement.

(5) Permit the substitution of public transportation related projects in lieu of or with a credit against the transportation impact fee assessable. Public transportation related projects may include:

a. Dedication of parking spaces for use by public transportation users who would park their cars in the dedicated area and ride public transportation to their final destinations.

b. Dedication of land for use as a transit terminal and transfer point.

c. Construction of bus shelters or other capital improvements which encourage the use of public transportation.

d. Participation by the primary employer or group of employers in an employee bus subsidy program.

e. Participation of the employer or group of employers in ridesharing program for its employees.
f. For d. and e. above, the applicant must describe the extent of the program and expected usage by employees. The City may record a lien against the development site to secure the assessment of any additional impact fee if the program does not result in the anticipated automobile trip reduction within three (3) years of recording. After three years, the lien shall expire and terminate.

(6) Except for assignment 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, lienholders 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 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 Director of Transportation or his designee is hereby delegated and authorized to execute assignment agreements on behalf of the City Council, subject to approval by the City Attorney, or his designee.

B. Escrow Agreement. The Director of Transportation or his 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 A(3) above. Escrow Agreements are intended to allow for flexibility in payment when credits are determined, independent calculation conducted, cash is obtained, or similar types of situations. The duration of any Escrow agreements shall be limited to nine (9) months from the date of execution, subject to discretionary extensions by the Director of Transportation or his designee.

(Ord. of 8-25-1986, Doc. #20552; Ord. of 7-16-1990, Doc. #24073; Ord. of 11-28-1994, Doc. #28057)

Sec. 56.11. Credits.

A. An applicant shall be entitled to a credit against the transportation impact fee assessed pursuant to this Chapter for 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 improvements). No credit will be granted pursuant to this subsection unless the cost of the improvements were paid for and the contributions made within the last five (5) years.
- (4) The cost of land or capital improvements for public transportation related projects or participation in employee ridesharing/bus subsidy programs to the extent that such programs reduce the external vehicular trip generation of the land use.

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

- (1) The actual cost, or estimated cost of transportation improvements based on recent bid sheet information of the City of Orlando or Orange County; and
- (2) A pro rata share of the appraised land value of the parent parcel in an amount not to exceed 150% of assessed value according to the Orange County Property Appraiser's Office;
- (3) The marginal cost of the required transportation improvement(s), taking into consideration the difference between the cost of the required transportation improvement(s) and the cost of the needed site related transportation improvement(s) that would have been required in any case.

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

D. Any credit issued pursuant to this Section may only be transferred by the holder of said credits to any successor in interest in the development site to which the credit pertained.

E. Any agreement for the issuance of credits against any Transportation Impact Fee assessed pursuant to this Chapter shall be included in a transportation impact fee agreement as set forth in Section 56.10 of this Chapter.

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

- (1) A notarized sworn statement that the petitioner is the current owner of the development site;
- (2) A copy of any transportation impact agreement, credit agreement, or other documentation on which the applicant relies for the claim which may pertain to the issuance of such credits;
- (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 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.

(Ord. of 8-25-1986, Doc. #20552; Ord. of 11-3-1986, Doc. #20730; Ord. of 7-16-1990, Doc. #24073; Ord. of 11-28-1994, Doc. #28057)

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 Council as of January 1, 2007, shall, to the limited extent described herein, be exempted from the rate increases contained in this Chapter, effective January 1, 2007, "Effective Date," and shall be assessed a transportation impact fee based on those rates in effect immediately prior to the Effective Date.

B. Permit Received. Those land uses which have received a development permit prior to the Effective Date, shall be assessed a transportation impact fee based on those rates in effect immediately prior to the Effective Date, 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 subsequent to the Effective Date.

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 immediately prior to the Effective Date. 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 Florida Statutes Ch. 380.

E. If a previously City-approved development order or permit or other binding agreement provides for the mitigation of the traffic impacts of said land use and if the Director of Transportation, or his designee, determines that such traffic impact mitigation measures are substantially consistent with the requirements of this Chapter, as amended, then the transportation impact fee payable for such land use under this Chapter, as amended, shall be revised accordingly to reflect the presumed traffic impact of said land use. There shall be a presumption that the traffic impact mitigation provisions of any development order or permit approved more than five (5) years prior to the Effective Date 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

transportation impact fee Chapter, thereafter the provisions and terms of the adopted impact fee Chapter will apply to the development project.

F. A developer or successor in interest of land for which the City, through its City Council, has formally, and in writing prior to the Effective Date, acknowledged the existence of transportation impact fee credits, "Credits," shall, to the limited extent described herein, be exempted from the rate increases contained in this Chapter, as of the Effective Date, and shall be assessed a transportation impact fee based on those rates in effect immediately prior to the Effective Date. Credits are defined in Section 56.11, herein, as certain non-site-related costs. Strictly limited to the amount of the Credits, the land shall be assessed transportation impact fees based on the rates in effect immediately prior to the Effective Date.

If the Credits or any portion thereof are utilized to pay impact fees related to the issuance of a development permit with respect to said land, under the terms of Section 56.12A, herein, the Credits may be utilized and expended no later than December 31, 2010.

In cases where the Credits are not expended within the time frame described herein, through no fault of the applicant, the City's Director of Transportation may, upon the Applicant's request, administratively extend the time frame for the expenditure of the Credits, as necessary to achieve an equitable application of this Section. Said determination(s) of extension are subject to appeal as provided in this Chapter. The request for an extension shall be submitted to the City's Director of Transportation, in writing, prior to the expiration of the applicable time frame and shall contain all documentation necessary to support the request. Any portion of the Credits not expended within the herein-described time frame, shall no longer operate to require application of rates in effect immediately prior to the Effective Date and shall subsequently be utilized solely to pay impact fees at then-existing rates. No portion of the Credits may be transferred to or utilized for other land(s).

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

- (1) The prepayment of impact fees must be made to the Transportation Impact Fee Coordinator no later than December 31, 2006.
- (2) The prepayment shall be treated as a Credit under the terms of sub-paragraph (F) herein, for the purpose of determining the application of rates.

(3) No portion of the prepayment may be transferred to or utilized for other land(s), and no portion of the prepayment will be returned to the developer or successor-in-interest.

(4) Except as described herein a developer or successor in interest must expend the prepayment to pay impact fees for the issuance of development permit(s) with respect to said land no later than December 31, 2009.

H. Any claim for application of impact fee rates in effect prior to the Effective Date, must be made in writing to the Transportation Impact Fee Coordinator no later than the time of application for a development permit, as described in sub-paragraph I herein, or in the case of Credits or prepayment as described in sub-paragraph F & G, herein, no later than January 1, 2007. Any claim not so made shall be deemed waived.

(Ord. of 8-25-1986, Doc. #20552; Ord. of 7-16-1990, Doc. #24073; Ord. of 11-28-1994, Doc. #28057)

I. Except as provided herein and in sub-paragraph F above, a developer or successor in interest of land, who makes a claim for application of rates in effect prior to the Effective Date, must file a complete application for development permit(s) related to said land within 270 calendar days of the Effective Date, and must obtain the issuance of said development permit(s) within 365 calendar days of the Effective Date.

In cases where the City Approval process has been appealed, the time frames described herein shall be extended so that the complete application must be made within 270 calendar days of the date of final resolution of the appeal and a development permit issued within 365 calendar days of the final resolution of the appeal. Final resolution is defined as the termination of all rights to appeal a City Approval.

In cases where a development permit is not issued within the time frames described herein, through no fault of the applicant for said permit, the City's Director of Transportation may, upon the Applicant's request, administratively extend the time frame for issuance of a development permit as necessary to achieve an equitable application of this Section. Said determination(s) of extension are subject to appeal as provided in this Chapter. The request for an extension shall be submitted to the City's Director of Transportation, in writing, prior to the expiration of the applicable time frame and shall contain all documentation necessary to support the request.

Any applications for permit not filed within the herein-described time frames, shall be assessed transportation impact fees at the rates in effect subsequently to the Effective Date. J. 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 transportation 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 Transportation, 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.

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

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

A. The provisions of this section shall only apply where the City Council of the City of Orlando has established a limited access-grade separated road improvement assessment area designed to assess the properties within such assessment area an amount equal to the pro rata share of the cost of such improvements based on the units of development to occur within the assessment area.

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

(Ord. of 8-25-1986, Doc. #20552; Ord. of 7-16-1990, Doc. #24073)

Sec. 56.14. Site Related Transportation Improvements.

The Transportation Impact Fee formula contained in this Chapter is designed to calculate the costs inherent in the construction of non-site related transportation improvements to the road network and is not intended to assess an amount that constitutes an approximation of the costs to construct site related transportation improvements. Therefore, if an assessment for or the

construction of site related transportation improvements are required as a condition of development approval or permit, then to the extent permitted by law, said assessment or construction requirements shall be considered as an addition to the assessment calculated pursuant to the terms of this Chapter.

(Ord. of 8-25-1986, Doc. #20552; Ord. of 7-16-1990, Doc. #24073)

Sec. 56.15. Exemptions.

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

A. 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.

B. The construction of accessory buildings or structures, to the extent that there is no increase in trip generation with respect to the existing principal land use and which will not increase the external trip generation of the existing principal land use.

C. 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. 25367-1A, and any amendments thereto, or as approved by the Housing and Community Development Division of the City of Orlando.

D. Outdoor eating and drinking areas of eating and drinking establishments. This shall include outdoor square footage used or leased in connection with outdoor eating and drinking. 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.

E. 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, recreation and cultural purposes).

F. 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 customarily 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 demonstrated external trip generation rates for the actual use, times the rate per external trip then in effect. 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.

G. 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)

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.

(Ord. of 8-25-1986, Doc. #20552; Ord. of 7-16-1990, Doc. #24073; Ord. of 12-16-1996, Doc. #29904)

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

Council of Orlando, upon recommendation of the Mayor, or a City-approved Agreement authorizing the expenditure of such funds consistent with this Chapter.

(Ord. of 8-25-1986, Doc. #20552)

Sec. 56.18. Collection of Transportation Impact Fee Assessment.

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

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

(Ord. of 8-25-1986, Doc. #20552; Ord. of 7-16-1990, Doc. #24073; Ord. of 11-28-1994, Doc. #28057)

Sec. 56.19. Use of Funds Collected.

A. The funds collected by reason of establishment of the transportation road 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 transportation improvements to the road network determined to be needed to serve new land uses, including, but not limited to:

- (1) corridor studies and environmental assessments,
- (2) design and construction plan preparation,
- (3) right-of-way acquisition,
- (4) construction of new through lanes,
- (5) construction of new turn lanes,
- (6) construction of new bridges,
- (7) construction of new drainage facilities in conjunction with new roadway construction,
- (8) purchase and installation of traffic signalization, signage and marking
- (9) construction of new curbs, medians and shoulders.
- (10) mass-transit projects

(11) pedestrian improvements that are integrally related to transportation improvements and serve to separate pedestrians from vehicles, thus enhancing the carrying capacity of the transportation system.

(12) other improvements, as determined by the City's Director of Transportation, that add to the pedestrian or vehicle carrying capacity of the transportation system.

B. All funds shall be used exclusively within the Transportation Benefit Areas 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 roads or other transportation 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 \$100,000 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.

(Ord. of 8-25-1986, Doc. #20552; Ord. of 1-11-1988, Doc. #21784; Ord. of 7-16-1990, Doc. #24073)

Sec. 56.20. Return of Funds.

If it is determined by the City of Orlando that transportation 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 transportation impact fees were paid, then said funds shall be eligible for refund to the then present owner in accordance with the following procedures:

A. The then present owner must petition the City Council for the refund within one (1) year following the end of the calendar quarter immediately following five (5) years from the date on which the fee was received by the City.

B. The petition must be submitted to the Director of Transportation and must contain:

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

C. Within sixty (60) days from the date of receipt of petition for refund, the Director of Transportation or his designee shall advise the petitioner and the City Council of the status of the transportation impact fee requested for refund. For the purpose of determining whether said fees have been spent or encumbered, the first money placed in a trust fund account shall be deemed to be the first money taken out of that account when withdrawals have been made.

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

(Ord. of 8-25-1986, Doc. #20552; Ord. of 7-16-1990, Doc. #24073)

Sec. 56.21. Review.

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

(Ord. of 8-25-1986, Doc. #20552; Ord. of 7-16-1990, Doc. #24073; Ord. of 11-28-1994, Doc. #28057)

Sec. 56.22. Penalty.

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

(Ord. of 8-25-1986, Doc. #20552)

Sec. 56.23. Appeals of Impact Fee Determinations.

A. Any person desiring to appeal an administrative decision regarding a determination relating to the payment of transportation impact fees or credits shall file a written Notice of Appeal with the Transportation Impact Fee Coordinator. Said Notice shall be filed within thirty (30) days of the decision sought to be appealed. A required processing fee, as established from time-to-time by City Council, shall be submitted with the Notice of Appeal in order to defray actual administrative costs associated with processing the transportation impact fee appeals.

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

C. Within thirty (30) days following the receipt of the written Notice of Appeal, the Director of Transportation will review the Appellant's written report, supporting documentation and departmental staff reports. The thirty (30) day review period may be extended if additional information is needed from the Appellant in order to render a decision. Upon completion of the administrative review, the Director will provide a written response to the Appellant constituting a final administrative determination.

D. Any person desiring to appeal the final administrative determination of the Director of Transportation regarding the payment of transportation impact fees or credits shall file a written Notice of Appeal to City Council. Said Notice of Appeal to City Council shall be filed with the Chief Administrative Officer for the City within fifteen (15) days following receipt of the final

administrative determination. Receipt shall be construed to have occurred when the final administrative decision is deposited in the United States mail postage prepaid to the person whose name and address was identified in the original Notice of Appeal.

E. All Notices of Appeal shall include a full explanation of the reasons for the appeal, specifying the grounds therefore, and containing any documentation which the applicant desires to be considered. The appeal shall contain the name and address of the person(s) filing the appeal and shall state their capacity to act as a representative or agent if they are not the owner of the property to which the transportation impact fees or credit pertain.

F. The City Clerk will schedule all transportation impact fee appeals for the first City Council meeting following ten (10) days from receipt of the written Notice of Appeal to City Council. Postponements of the City Council appeal date may be granted by the City Clerk if they are requested in writing at least ten (10) days in advance of the scheduled City Council meeting date.

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

(Ord. of 8-25-1986, Doc. #20552)

Exhibit "A"
CITY OF ORLANDO
IMPACT FEE RATE SCHEDULE
TABLE INSET:

FY 06-07 Transportation Impact Fee Rate. Effective January 1, 2007

	Fee Basis	Traditional City	AC-3A Downtown	AC-3 Activity Center	MSTU International Dr.	City Other	East Washington AC-N	Special Plan Areas *
Single Family	/ Unit	\$1,757	\$1,661	\$2,216	\$1,633	\$2,400		
Multi-Family	/ Unit	\$1,234	\$1,166	\$1,556	\$1,147	\$1,685		
Mobile Home	/ Unit	\$916	\$866	\$1,155	\$851	\$1,252		
Hotel/Motel	/ Room	\$1,916	\$1,266	\$2,365	\$1,743	\$2,561		
General Office < 100,000GSF	/ 1000 sq. ft.	\$2,739	\$2,500	\$3,714	\$2,737	\$4,016		
General Office 100,000-199,999GSF	/ 1000 sq. ft.	\$2,263	\$2,034	\$3,022	\$2,227	\$3,268		
General Office > 200,000GSF	/ 1000 sq. ft.	\$1,937	\$1,724	\$2,561	\$1,887	\$2,769		
Retail < 99,999GSF	/ 1000 sq. ft.	\$6,872	\$5,544	\$8,607	\$6,342	\$9,343		
Retail 100,000-199,999 GSF	/ 1000 sq. ft.	\$6,637	\$5,217	\$8,175	\$6,023	\$8,873		
Retail 200,000-299,999GSF	/ 1000 sq. ft.	\$6,591	\$4,309	\$8,019	\$5,909	\$8,704		
Retail 300,000-399,999GSF	/ 1000 sq. ft.	\$5,858	\$3,800	\$7,071	\$5,210	\$7,675		
Retail 400,000-499,999GSF	/ 1000 sq. ft.	\$5,366	\$3,459	\$6,437	\$4,743	\$6,986		
Retail 500,000-999,999GSF	/ 1000 sq. ft.	\$4,900	\$3,120	\$5,981	\$4,407	\$6,492		
Retail 1,000,000-1,249,999GSF	/ 1000 sq. ft.	\$4,252	\$2,826	\$5,418	\$3,992	\$5,881		
Retail >1,250,000GSF	/ 1000 sq. ft.	\$3,938	\$2,679	\$5,137	\$3,785	\$5,575		
Mixed Use Project	Vairies			Alternative Impact Study, Project Specific				
Specialty Retail (<25,000 GSF)	/ 1000 sq. ft.						\$2,150	
Specialty Retail (<25,000 GSF)	/ 1000 sq. ft.							\$4,134
Hospital	/ 1000 sq. ft.	\$3,272	\$3,106	\$4,178	\$3,078	\$4,517		
Industrial	/ 1000 sq. ft.	\$1,298	\$1,232	\$1,657	\$1,221	\$1,792		
Manufacturing	/ 1000 sq. ft.	\$711	\$675	\$908	\$669	\$982		
Warehousing	/ 1000 sq. ft.	\$924	\$877	\$1,179	\$869	\$1,275		
Bank	/ 1000 sq. ft.	\$16,510	\$14,610	\$18,578	\$13,689	\$20,164		
Day Care	/ 1000 sq. ft.	\$5,026	\$4,753	\$6,785	\$4,999	\$7,336		
Elementary School (Grades K-8)	/ 1000 sq. ft.	\$1,901	\$1,797	\$2,584	\$1,904	\$2,794		
High School	/ 1000 sq. ft.	\$1,703	\$1,709	\$2,299	\$1,694	\$2,486		
Junior Community College	/ 1000 sq. ft.	\$3,632	\$3,645	\$4,902	\$3,612	\$5,301		
University	/ 1000 sq. ft.	\$5,304	\$5,324	\$7,160	\$5,276	\$7,742		
Movie Theatre	/ 1000 sq. ft.	\$13,702	\$10,911	\$16,364	\$12,058	\$17,694		
Amusement (Theme) Park	/ Acre	\$14,109	\$13,394	\$18,014	\$13,274	\$19,478		
Auto Service and Gas Station	/ Pump	\$5,035	\$4,902	\$4,902	\$4,902	\$5,035		
Bus Terminal	/ 1000 sq. ft.	\$4,656	\$4,420	\$5,944	\$4,380	\$6,428		
Funeral Home	/ 1000 sq. ft.	\$1,736	\$1,648	\$2,216	\$1,633	\$2,396		
Mini Storage	/ 1000 sq. ft.	\$466	\$442	\$594	\$438	\$643		
Motel	/ Room	\$1,956	\$1,293	\$2,416	\$1,780	\$2,616		
Medical/Dental Office	/ 1000 sq. ft.	\$5,855	\$5,049	\$6,992	\$5,152	\$7,561		
Supermarket	/ 1000 sq. ft.	\$9,536	\$8,564	\$11,345	\$8,359	\$12,314		
Convenience Market	/ 1000 sq. ft.	\$32,468	\$30,289	\$38,626	\$28,461	\$41,925		
Home Improvement Superstore	/ 1000 sq. ft.	\$4,353	\$2,762	\$5,178	\$3,816	\$5,621		
Pharmacy/Drugstore	/ 1000 sq. ft.	\$7,924	\$6,931	\$9,427	\$6,947	\$10,233		
Heavy Industrial	/ 1000 sq. ft.	\$279	\$265	\$316	\$233	\$341		
Quality Restaurant	/ 1000 sq. ft.	\$12,980	\$6,922	\$17,455	\$12,862	\$18,946		
Quality Restaurant	/ 1000 sq. ft.						\$4,461	
High-turnover Sit Down Restaurant	/ 1000 sq. ft.	\$11,635	\$5,219	\$13,842	\$10,200	\$15,025		
High-turnover Sit Down Restaurant	/ 1000 sq. ft.						\$4,461	
Fast Food Restaurant	/ 1000 sq. ft.	\$25,319	\$20,362	\$30,121	\$22,195	\$32,694		
Automobile Parts Sales	/ 1000 sq. ft.	\$5,774	\$5,186	\$6,870	\$5,062	\$7,456		
Tire Store	/ 1000 sq. ft.	\$2,232	\$2,083	\$2,655	\$1,957	\$2,882		
New Car Sales	/ 1000 sq. ft.	\$4,901	\$4,635	\$6,233	\$4,593	\$6,765		
Furniture Store	/ 1000 sq. ft.	\$739	\$623	\$879	\$648	\$954		
Senior Adult Housing	/ 1000 sq. ft.	\$681	\$621	\$879	\$648	\$952		
Assisted Living	/ 1000 sq. ft.	\$488	\$0	\$272	\$200	\$294		
Nursing Home	/ 1000 sq. ft.	\$1,136	\$1,078	\$1,450	\$1,069	\$1,568		
Discount Home Furnishing Superstore	/ 1000 sq. ft.	\$6,983	\$4,806	\$8,243	\$6,074	\$8,947		
Health/Fitness Club	/ 1000 sq. ft.	\$4,346	\$2,816	\$5,171	\$3,810	\$5,612		
Resort Hotel	/ Room	\$2,884	\$1,906	\$3,561	\$2,624	\$3,856		

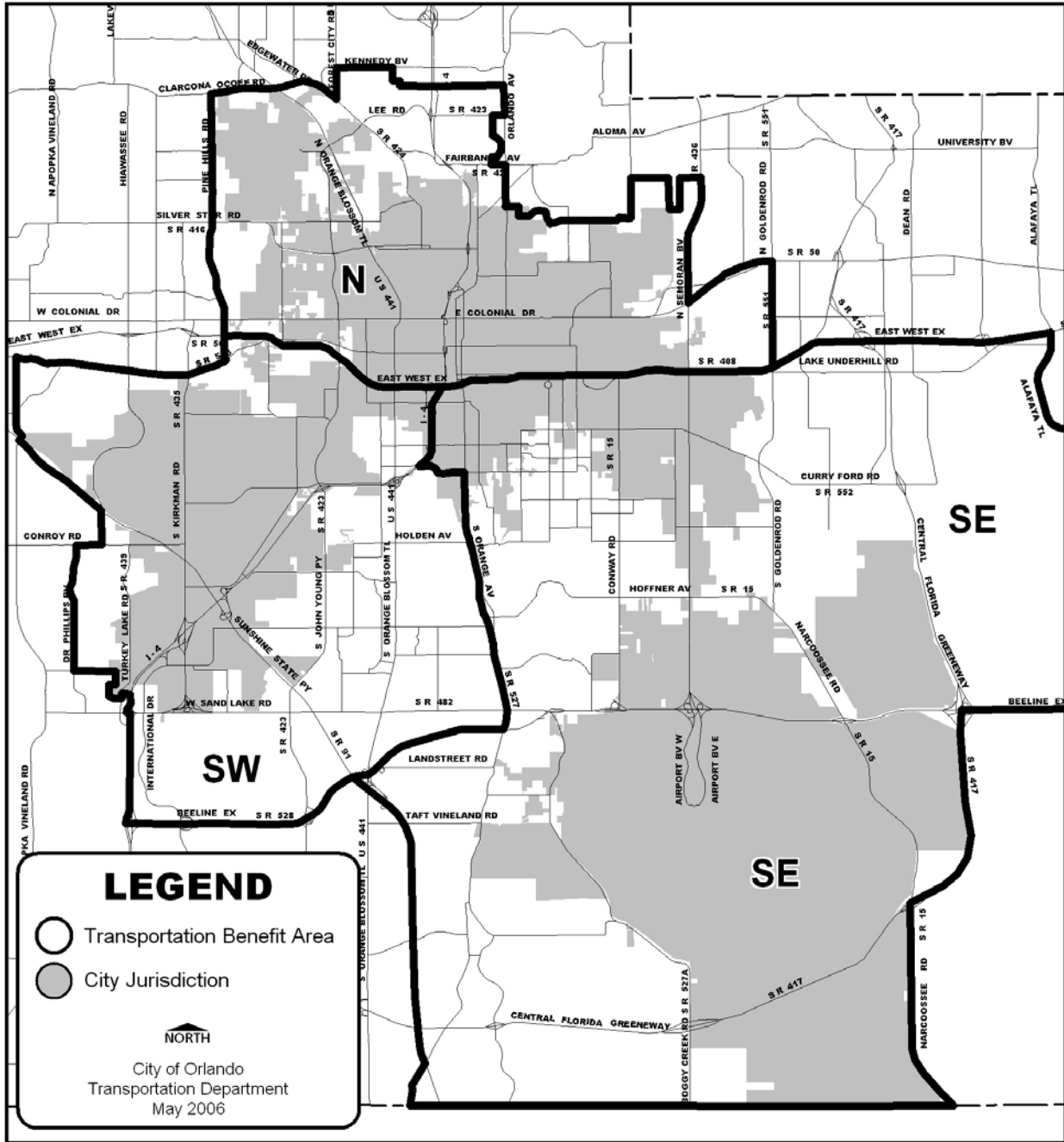
* Only applies to North Orange, Edgewater and North Lucerne Special Areas

FY 07-08 Transportation Impact Fee Rate. Effective October 1, 2007.

	Fee Basis	Traditional City	AC-3A Downtown	AC-3 Activity Center	MSTU International Dr.	City Other	East Washington AC-N	Special Plan Areas *	
Single Family	/ Unit	\$2,636	\$2,492	\$3,324	\$2,449	\$3,600			
Multi-Family	/ Unit	\$1,851	\$1,750	\$2,334	\$1,720	\$2,528			
Mobile Home	/ Unit	\$1,375	\$1,299	\$1,733	\$1,277	\$1,877			
Hotel/Motel	/ Room	\$2,874	\$1,899	\$3,548	\$2,614	\$3,842			
General Office < 100,000GSF	/ 1000 sq. ft.	\$4,109	\$3,750	\$5,571	\$4,105	\$6,024			
General Office 100,000-199,999GSF	/ 1000 sq. ft.	\$3,394	\$3,051	\$4,533	\$3,340	\$4,902			
General Office > 200,000GSF	/ 1000 sq. ft.	\$2,905	\$2,586	\$3,841	\$2,830	\$4,154			
Retail < 99,999GSF	/ 1000 sq. ft.	\$10,308	\$8,315	\$12,911	\$9,513	\$14,014			
Retail 100,000-199,999 GSF	/ 1000 sq. ft.	\$9,956	\$7,825	\$12,262	\$9,035	\$13,309			
Retail 200,000-299,999GSF	/ 1000 sq. ft.	\$9,886	\$6,464	\$12,029	\$8,863	\$13,056			
Retail 300,000-399,999GSF	/ 1000 sq. ft.	\$8,787	\$5,700	\$10,606	\$7,815	\$11,512			
Retail 400,000-499,999GSF	/ 1000 sq. ft.	\$8,049	\$5,188	\$9,655	\$7,114	\$10,480			
Retail 500,000-999,999GSF	/ 1000 sq. ft.	\$7,351	\$4,680	\$8,972	\$6,611	\$9,738			
Retail 1,000,000-1,249,999GSF	/ 1000 sq. ft.	\$6,378	\$4,239	\$8,127	\$5,988	\$8,821			
Retail >1,250,000GSF	/ 1000 sq. ft.	\$5,907	\$4,019	\$7,705	\$5,677	\$8,363			
Mixed Use Project	Vairies	Alternative Impact Study, Project Specific							
Specialty Retail (<25,000 GSF)	/ 1000 sq. ft.						\$3,225		
Specialty Retail (<25,000 GSF)	/ 1000 sq. ft.							\$6,200	
Hospital	/ 1000 sq. ft.	\$4,908	\$4,660	\$6,267	\$4,618	\$6,776			
Industrial	/ 1000 sq. ft.	\$1,947	\$1,848	\$2,486	\$1,832	\$2,688			
Manufacturing	/ 1000 sq. ft.	\$1,067	\$1,013	\$1,362	\$1,004	\$1,473			
Warehousing	/ 1000 sq. ft.	\$1,386	\$1,315	\$1,769	\$1,304	\$1,913			
Bank	/ 1000 sq. ft.	\$24,765	\$21,914	\$27,867	\$20,533	\$30,247			
Day Care	/ 1000 sq. ft.	\$7,539	\$7,129	\$10,177	\$7,499	\$11,004			
Elementary School (Grades K-8)	/ 1000 sq. ft.	\$2,851	\$2,695	\$3,876	\$2,856	\$4,191			
High School	/ 1000 sq. ft.	\$2,554	\$2,564	\$3,448	\$2,541	\$3,728			
Junior Community College	/ 1000 sq. ft.	\$5,448	\$5,468	\$7,354	\$5,418	\$7,951			
University	/ 1000 sq. ft.	\$7,956	\$7,986	\$10,740	\$7,914	\$11,613			
Movie Theatre	/ 1000 sq. ft.	\$20,554	\$16,367	\$24,546	\$18,086	\$26,541			
Amusement (Theme) Park	/ Acre	\$21,164	\$20,092	\$27,021	\$19,910	\$29,217			
Auto Service and Gas Station	/ Pump	\$7,552	\$7,352	\$7,352	\$7,352	\$7,552			
Bus Terminal	/ 1000 sq. ft.	\$6,984	\$6,630	\$8,917	\$6,570	\$9,641			
Funeral Home	/ 1000 sq. ft.	\$2,604	\$2,472	\$3,324	\$2,449	\$3,594			
Mini Storage	/ 1000 sq. ft.	\$698	\$663	\$892	\$657	\$964			
Motel	/ Room	\$2,935	\$1,940	\$3,624	\$2,670	\$3,923			
Medical/Dental Office	/ 1000 sq. ft.	\$8,783	\$7,574	\$10,488	\$7,728	\$11,341			
Supermarket	/ 1000 sq. ft.	\$14,304	\$12,846	\$17,017	\$12,539	\$18,470			
Convenience Market	/ 1000 sq. ft.	\$48,701	\$45,434	\$57,939	\$42,692	\$62,888			
Home Improvement Superstore	/ 1000 sq. ft.	\$6,529	\$4,143	\$7,767	\$5,723	\$8,431			
Pharmacy/Drugstore	/ 1000 sq. ft.	\$11,886	\$10,396	\$14,141	\$10,420	\$15,349			
Heavy Industrial	/ 1000 sq. ft.	\$419	\$398	\$473	\$349	\$512			
Quality Restaurant	/ 1000 sq. ft.	\$19,470	\$10,383	\$26,182	\$19,292	\$28,419			
Quality Restaurant	/ 1000 sq. ft.						\$6,691		
High-turnover Sit Down Restaurant	/ 1000 sq. ft.	\$17,453	\$7,828	\$20,764	\$15,299	\$22,537			
High-turnover Sit Down Restaurant	/ 1000 sq. ft.						\$6,691		
Fast Food Restaurant	/ 1000 sq. ft.	\$37,978	\$30,543	\$45,182	\$33,292	\$49,041			
Automobile Parts Sales	/ 1000 sq. ft.	\$8,661	\$7,778	\$10,304	\$7,593	\$11,184			
Tire Store	/ 1000 sq. ft.	\$3,348	\$3,125	\$3,983	\$2,935	\$4,323			
New Car Sales	/ 1000 sq. ft.	\$7,351	\$6,952	\$9,349	\$6,889	\$10,148			
Furniture Store	/ 1000 sq. ft.	\$1,109	\$934	\$1,319	\$972	\$1,432			
Senior Adult Housing	/ 1000 sq. ft.	\$1,022	\$932	\$1,318	\$971	\$1,428			
Assisted Living	/ 1000 sq. ft.	\$733	\$0	\$407	\$300	\$441			
Nursing Home	/ 1000 sq. ft.	\$1,704	\$1,618	\$2,176	\$1,603	\$2,353			
Discount Home Furnishing Superstore	/ 1000 sq. ft.	\$10,475	\$7,208	\$12,365	\$9,111	\$13,421			
Health/Fitness Club	/ 1000 sq. ft.	\$6,519	\$4,224	\$7,756	\$5,715	\$8,418			
Resort Hotel	/ Room	\$4,326	\$2,859	\$5,342	\$3,936	\$5,784			

* Only applies to North Orange, Edgewater and North Lucerne Special Areas

GRAPHIC LINK: [EXHIBIT B](#)



SECTION TWO: If any section, subsection, sentence, clause, phrases or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion hereto.

SECTION THREE: This ordinance shall take effect as provided by law, and the terms herein.

ADVERTISED: _____, 2006.

READ FIRST TIME: _____, 2006.

READ SECOND TIME AND ADOPTED _____, 2006.

[SIGNATURES ON FOLLOWING PAGE]

CITY OF ORLANDO

By: _____
Mayor / Mayor Pro Tem

ATTEST:

Alana C. Brenner, City Clerk

APPROVED AS TO FORM AND LEGALITY for
the use and reliance of the City of Orlando, Florida,
only.

_____, 2006

Assistant City Attorney
Orlando, Florida

STATE OF FLORIDA
COUNTY OF ORANGE

PERSONALLY APPEARED before me, the undersigned authority,
_____ and Alana C. Brenner, well known to me and known by
me to be Mayor _____ and City Clerk, respectively, of the City of Orlando, Florida, and
acknowledged before me that they executed the foregoing instrument on behalf of the City of
Orlando as its true act and deed, and that they were duly authorized to do so.

WITNESS MY hand and official seal this ____ day of _____, 2006.

Notary Public - State of Florida at Large
Print Name: _____
My commission expires: