

AN ORDINANCE AMENDING CHAPTER 105, "EDUCATIONAL SYSTEM IMPACT FEES", LAND DEVELOPMENT CODE OF SEMINOLE COUNTY, FLORIDA; PROVIDING NOTICE THAT THE REVISED EDUCATIONAL IMPACT FEE RATES ESTABLISHED BY THIS ORDINANCE SHALL BE EFFECTIVE NINETY (90) DAYS FROM THE DATE OF ADOPTION OF THIS ORDINANCE; PROVIDING FOR CODIFICATION IN THE LAND DEVELOPMENT CODE OF SEMINOLE COUNTY, FLORIDA; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the governing body of the School District of Seminole County, Florida ("School Board") commissioned that certain study entitled "Seminole County Public Schools School Impact Fee Study Update Final Report" dated October 2, 2017 prepared by Tindale Oliver ("2017 Study"); and

WHEREAS, the 2017 Study recommends revisions and refinements to the calculation of educational system impact fees and the methodology for alternative educational system impact fee calculation; and

WHEREAS, after discussions at public meetings between the School Board and the Board of County Commissioners, it has been determined that less than one hundred percent (100%) of the impacts shown to be caused by development, as established in the 2017 Study and prior studies, will be charged to new development for impacts upon the educational system and, further, such fees shall be based upon various categories established according to type and size of such use as supported by the 2017 Study; and

WHEREAS, it is deemed to be in the best interests of the public health, safety and welfare of the citizens of Seminole County to amend the Educational System Impact Fees provisions as more particularly set forth below; and

WHEREAS, the Seminole County Home Rule Charter requires that an Economic Impact Statement be prepared to address the potential fiscal impacts and economic costs of this Ordinance upon the public and taxpayers of Seminole County and such Economic Impact Statement has been prepared and has been made available for public review and copying prior to the enactment of this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Seminole County, Florida:

Section 1. Chapter 105, "Educational System Impact Fees", of the Land Development Code of Seminole County, Florida is hereby amended to read as follows:

Chapter 105 - EDUCATIONAL SYSTEM IMPACT FEES

PART 1. - GENERAL

Sec. 105.1 Definitions.

When used in this chapter, the following terms shall have the following meaning, unless the context otherwise clearly requires:

Accessory building or structure: A detached, subordinate structure, the use of which is clearly indicated and related to the use of the principal building or use of the land and which is located on the same lot as the principal building.

Alternative educational system impact fee: Any alternative fee supported by an independent study, which is calculated by an applicant ~~and approved by the deputy county~~

Manager in accordance with a methodology that has been approved by Seminole County pursuant to section 105.24 or the board pursuant to section 105.49.

Ancillary plant: The buildings, sites and site improvements necessary to provide support services to educational programs and shall include, but not be limited to, such facilities as vehicle maintenance, warehouses, maintenance or administrative buildings not located at educational plants.

Apartment: A rental dwelling unit located within the same building as other dwelling units.

Applicant: The person who applies for a building permit.

Auxiliary facilities: Those portions of an educational plant which are not designated for student occupant stations.

Board: The Board of County Commissioners of Seminole County, Florida.

Building: Any structure, either temporary or permanent, built for the support, shelter or enclosure of persons, chattels or property of any kind. This term shall include trailers, mobile homes or any vehicles serving in any way the function of a building. This term shall not include temporary construction sheds or trailers erected to assist in construction and maintained during the term of a building permit.

Building permit: The official document or certificate issued by a municipality or a county under the authority of ordinance or law, authorizing the construction or siting of a building, or any portion thereof, within an educational system impact construction. ~~For~~ For purposes of this ordinance the term “building permit” shall also include a tie-down permit for a building, such as a mobile home, that does not require a building permit in order to be occupied.

City commission: The governing body of each of the cities.

Cities or municipalities: This term shall mean collectively, Altamonte Springs, Casselberry, Lake Mary, Longwood, Oviedo, Sanford, and Winter Springs.

City or municipality: Either of the individual municipalities of Altamonte Springs, Casselberry, Lake Mary, Longwood, Oviedo, Sanford, and Winter Springs.

Comprehensive plan: The Comprehensive Plan adopted and amended pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act, as contained in Part II, Chapter 163, Florida Statutes (1991), as amended and supplemented, or its successor in function.

Condominium: A single-family unit or a time-share unit as defined in Chapter 721, Florida Statutes (1991), that has at least one other similar unit within the same building structure. The term “Condominium” includes all fee-simple or titled multiunit structures, including townhouses and duplexes. The term “condominium” also includes single-family detached houses on lots less than fifty (50) feet wide, such as zero lot-line homes.

County: Seminole County, a political subdivision of the State of Florida.

County attorney: The person appointed by the board to serve as its counsel, or the designee of such person.

County educational system or educational system: The educational and ancillary plants which are used to provide instruction within the public schools or the administrative or support activities related thereto.

County manager: The person appointed by the board to serve as its county manager, or the designee of such person.

Deputy county manager: The person appointed by the board to serve as its deputy county manager for community services, or the designee of such person.

Dwelling unit: A building, or a portion thereof, which is designed for residential occupancy, consisting of one or more rooms which are arranged, designed or used as living quarters for one family only.

Educational facilities: The building, furniture and equipment that are built, installed or established to serve educational purposes and are designated for student occupant stations.

Educational plant: The land, building, furniture, equipment and site improvements necessary to accommodate students, faculty, administrators, staff and the activities of the educational programs and services for each student and shall include both the educational and auxiliary facilities.

Educational system impact construction: Land development designed or intended to permit more dwelling units than the existing use of land contains.

Educational system impact fee trust account: The separate trust account created pursuant to section 105.23.

Encumbered: Moneys committed by contract or purchase order in a manner that obligates the county or the school board to expend the encumbered amount upon delivery of goods, the rendering of services or the conveyance of real property by a vendor, supplier, contractor or owner.

Impact fee: The fee imposed pursuant to section 105.21 of this chapter.

Impact fee statement: The document, valid for up to sixty (60) days, issued to an Applicant prior to the issuance of a building permit containing the calculation of the impact fees imposed on educational system impact construction under section 105.21.

Impact fee study: The study incorporated pursuant to section 105.4, as amended and supplemented pursuant to section 105.51.

Low and very low income housing: The same meaning as provided in the Seminole County Land Development Code (1992), as amended and supplemented or its successor in function.

Multi-family dwelling unit: Apartments and condominiums.

Mobile home: Manufactured homes, trailers, campers and recreational vehicles.

Owner: The person holding legal title to the real property upon which educational facilities impact construction is to be built.

Person: An individual, a corporation, a partnership, an incorporated association, or any other similar entity.

Public schools: All kindergarten classes; elementary, middle and high school grades and special classes; and all adult, part-time, vocational and evening schools, courses or classes operated by law under the control of the school board.

Residential: Multi-family dwelling units, mobile homes or single-family detached houses.

School board: The governing body of the School District of Seminole County, Florida.

Single-family detached house: A dwelling unit on an individual lot excluding detached houses on lots less than fifty (50) feet wide, such as zero lot line homes.

Sec. 105.2. Rules of construction.

For the purposes of the administration and enforcement of this chapter, 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 ordinance and any caption, illustration, summary table, or illustrative table, the text shall control.

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

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

(d) The phrase “used for” includes “arranged for,” “designed for,” “maintained for,” or “occupied for.”

(e) Unless the context clearly indicates the contrary, where a regulation involves two 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 a similar kind or character.

Sec. 105.3. Findings.

It is hereby ascertained, determined and declared:

(a) That the school board has adopted Resolutions 2017-08 and 2017-09 92-3, which requests the county to revise the ~~adopt an~~ educational system impact fees in accordance with the most recent study requiring future educational system impact construction to contribute its fair share of the cost of improvements and additions to the educational system necessary to accommodate such growth.

(b) That the school board has determined that ad valorem tax revenue, gross receipts tax revenue, and other revenue generated by such future educational system impact construction will not be sufficient to provide the improvements and additions to the educational system required to accommodate such growth.

(c) That Section 163.3177, Florida Statutes, requires the county and the cities to adopt a comprehensive plan containing a capital improvements element which considers the need and location of public facilities within its areas of jurisdiction and the projected revenue sources to be utilized to fund these facilities.

(d) That pursuant to Section ~~235.193(1)~~ 163.31777, Florida Statutes, the school board, the county and the cities are required to ~~coordinate the planning of educational facilities with the planning of residential development and the providing of other necessary services. Section 235.193 further requires~~ enter into an interlocal agreement in which plans and processes of the School Board and local governments are to be coordinated including a process for determining the need for and timing of Educational facilities and their offsite impacts ~~to be consistent with the comprehensive plan. Section 163.3161(3), Florida Statutes, directs local governments to make efficient and adequate provisions for schools.~~

(e) Section 163.3202(3), Florida Statutes, encourages the use of innovative land use regulations and impact fees to manage growth and to provide the necessary public facilities. The imposition by a county of impact fees on residential development to fund the capital cost of educational facilities necessitated by such development is consistent with Florida law.

(f) The implementation of an educational system impact fee to require future growth to contribute its fair share of the cost of required capital improvements and additions is an integral and vital part of the regulatory plan of growth management in the county and the cities.

(g) The projected capital improvements and additions to the educational system and the allocation of projected costs between those necessary to serve existing development and those required to accommodate the educational needs of future educational system impact construction, as presented in the study entitled “~~impact fees for educational facilities in Seminole County, Florida,~~” dated April 10, 1992 “Seminole County Public Schools School Impact Fee Study Update Final Report,” dated October 2, 2017 prepared by Tindale Oliver, is hereby approved. The impact fee rates as listed in that study may be imposed through this ordinance at less than one hundred percent (100%) as determined by the Board to be in the public interest and ensure the impact fee rates are a fair share contribution.

(h) That it is anticipated that an interlocal agreement will be entered into between the county, the school board and the cities to facilitate the administration and collection of an educational system impact fee within all areas of the county.

(i) The establishment of an educational system impact fee is consistent with the comprehensive plan, furthers common welfare and interests of the people of Seminole County, Florida, and is specifically found to serve a county purpose.

Sec. 105.4. Incorporation of impact fee study. The board hereby incorporates by reference the study entitled “Impact Fees for Educational Facilities in Seminole County, Florida,” dated April 10, 1992, and the study entitled “School Impact Fee Analysis for Seminole County Florida,” dated March 16, 2006, particularly the assumptions, conclusions and findings as to the determination of anticipated costs of the additions to the county educational system required to accommodate growth and that certain study entitled “Seminole County Public Schools School Impact Fee Study Update Final Report,” dated October 2, 2017 prepared by Tindale Oliver.

Secs. 105.5—105.10. Reserved.

PART 2. - RESERVED

Secs. 105.11—105.20. Reserved.

PART 3. - EDUCATIONAL SYSTEM IMPACT FEES

Sec. 105.21. Imposition.

(a) All educational system impact construction occurring within the ~~County~~ county, both within the unincorporated areas and within the boundaries of all municipalities, shall pay the educational system impact fee as established in this Chapter.

(b) The board hereby adopts the following educational system impact fee, which shall be imposed upon all educational system impact construction occurring within the ~~County~~ county:

Single Family Detached House		\$5,000.00 per Dwelling Unit
Town Home Units:		\$2,450.00 per Dwelling Unit
Multi Family Units:		\$2,100.00 per Dwelling Unit
Mobile Home Units:		\$1,924.00 per Dwelling Unit
Residential Land Use		
Tiering		
<i>Single Family ⁽¹⁾</i>		\$ 9,000
<i>Townhome/Condo/Duplex</i>		\$ 5,000
	<u>Under 850 sf</u>	\$ 4,900
<i>Multi-Family (Apartments)</i>	<u>851 sf to 1000 sf</u>	<u>7,100</u>
	<u>1001 sf or More</u>	\$ 8,700
<i>Mobile Homes ⁽¹⁾</i>		\$ 4,700

(1) Detached single family units of less than five hundred (500) square feet (“tiny homes”) shall be assessed at the mobile home rate.

Sec. 105.22. Calculation of educational system impact fee.

(a) Except as otherwise provided in this chapter, an impact fee statement shall be issued for all educational system impact construction occurring within the unincorporated areas of the county following application for, but prior to the issuance of a building permit.

(b) In all municipal areas of the county, the impact fee statement shall be calculated and issued as provided in section 105.44(B)(2) or under the provisions of section 105.45 in the event a municipality has not agreed to assist in the calculation and collection of impact fees as recognized in section 105.44(B)(3).

Sec. 105.23. Use of monies.

(a) Educational system impact fees collected and transferred to the school board pursuant to this chapter shall be deposited in a separate trust account established by the school board. Such account shall be designated as the “educational system impact fee trust account” and shall be maintained separate and apart from all other accounts of the school board.

(b) The monies deposited into the educational system impact fee trust account shall be used solely for the purpose of providing growth necessitated capital improvements and additions to educational plants and ancillary plants of the county educational system including, but not limited to:

- (1) Design and construction plan preparation;
- (2) Permitting and fees;
- (3) Land acquisition, including any cost of acquisition;
- (4) Construction and design of educational plants and ancillary plants or improvements and additions thereto;

(5) Construction and design of drainage facilities required by the construction of educational plants and ancillary plants or improvements or additions thereto;

(6) Relocating utilities required by the construction of educational plants and ancillary plants or improvements or additions thereto;

(7) Site development and improvements, including sidewalks, incidental to the construction of educational plants and ancillary plants or improvements and additions thereto;

(8) Landscaping;

(9) Construction management and inspection;

(10) Surveying, soils and material testing;

(11) Acquisition of furniture and equipment necessary to accommodate students, faculty, administrators, staff and the activities of the educational programs and services at educational plants;

(12) Repayment of moneys borrowed subsequent to the effective date of this ordinance from any budgetary fund of the county or the school board which were used to fund growth necessitated capital improvements and additions to the educational plants or ancillary plants as provided herein; and

(13) Payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the county or school board to fund growth necessitated improvements and additions to the county educational system subsequent to the effective date of this chapter.

(c) The moneys deposited into the educational system impact fee trust account shall be used solely to provide capital improvements and additions to the county educational system as necessitated by growth and shall not be used for any expenditure that would be classified as a

maintenance or repair expense. Nor shall such moneys be used to provide the impact fee rebates for low and very low income housing authorized in section 105.47.

(d) Funds on deposit which are not immediately necessary for expenditure shall be invested by the school board. All income derived from such investments shall be deposited in the educational system impact fee trust account and used as provided herein.

(e) The impact fees collected pursuant to this chapter shall be returned by the school board to the then current owner of the property on behalf of which such fee was paid, if such fees have not been expended or encumbered prior to the end of the fiscal year immediately following the sixth anniversary of the date upon which such fees were paid. Refunds shall be made only in accordance with the following procedure:

(1) The then current owner shall petition the school board for the refund prior to the end of the fiscal year immediately following the sixth anniversary of the date of payment of the educational system impact fee.

(2) The petition for refund shall be submitted to the school board and shall contain:

(A) A notarized sworn statement that the petitioner is the then current owner of the property on behalf of which the impact fee was paid;

(B) A copy of the dated receipt issued for payment of such fee, or such other record as would indicate payment of such fee;

(C) A certified copy of the latest recorded deed; and

(D) A copy of the most recent ad valorem tax notice.

(3) Within three (3) months from the date of receipt of a petition for refund, the school board will advise the petitioner of the status of the impact fee requested for refund, and if

such impact fee has not been expended or encumbered within the applicable time period, then it shall be returned to the petitioner, with interest paid at the average net interest rate earned by the school board in the educational system impact fee trust account during the time such refunded impact fee was on deposit. For the purposes of this section, fees collected shall be deemed to be spent or encumbered on the basis of the first fee in shall be the first fee out.

(f) By September 30th of each year, the school board shall provide the county and municipalities with a summary of the educational system impact fees received during the past year and the purposes for which they have been utilized.

Sec. 105.24. Alternative educational system impact fee calculation.

(a) ~~In the event an applicant believes that the impact to the county educational system necessitated by its educational system impact construction is less than the fee established in section 105.21, such Applicant may, prior to issuance of a building permit for such educational system impact construction, submit a calculation of an alternative educational system impact fee.~~ Prior to commencing an Alternative Educational System Impact Fee calculation study, the applicant shall arrange and attend a pre-application meeting with the Deputy County Manager or his/her designee and a designated representative of the Seminole County Public School System to discuss the requirements and procedures related to the methodology for the Alternative Educational System Impact Fee calculation which shall be reduced to writing and supplied to the applicant.

To ensure that the Alternative Educational System Impact Fee is consistent with the Florida case law requirements for a valid education system impact fee and the mandate for the provision of a uniform system of free public schools in Article IX, Section 1, Florida Constitution, the Alternative Educational System Impact Fee calculation study shall provide that the variation of the demand component in terms of student generation rate is statistically significant ($p < .05$) from

those averages/distribution established in the most recent school impact fee study approved by the County.

(b) ~~The alternative educational system impact fee~~ Alternative Educational System Impact Fee calculations shall be calculated for that land use type and impact fee study, or an independent source, provided that shall be based on data, information or assumptions contained in this chapter and the most recent School Impact Fee approved by the County and shall:

(1) ~~The~~ Identify a qualified independent source for the data that is a generally accepted standard source of demographic and education planning; or

(2) ~~The~~ Utilize an independent source is a local study supported by a data base adequate for the conclusion contained in such study and performed pursuant to a generally accepted methodology of education planning.

(3) ~~If a previous educational system impact construction project has submitted a local study consistent with the criteria required herein, and if such study is determined to be current by the deputy county manager, the impact upon the educational system as described in such prior local study shall be presumed to exist for other similar educational system impact construction. In such circumstances, the alternative educational system impact fee shall be established to reflect the impact upon the county educational system as described in the prior local study. There shall be a rebuttable presumption that an educational system impact study conducted more than two (2) years earlier is invalid. Include comparative data only for sites that have received a final Certificate of Occupancy at least three (3) years prior to the study.~~

(4) Identify the unique use, structural or location characteristics that result in statistically significant lower student generation rate.

(5) Demonstrate that the methodology establishing the alternative student generation rate does not violate the mandate for the provision of a uniform system of free public schools in Article IX, Section 1, Florida Constitution.

(c) For purposes of any alternative educational system impact fee calculation, the educational system impact construction shall be presumed to have the maximum impact on the educational system.

(d) The proposed alternative educational system impact fee shall be submitted to the deputy county manager who shall transmit a copy of it to the school board for its review and recommendation. Within fifteen (15) calendar days, the school board shall provide its written recommendation to the deputy county manager as to whether such proposed alternative educational system impact fee complies with this section.

(e) Within fifteen (15) calendar days of receiving the school board recommendation, the deputy county manager shall review the ~~alternative educational system impact fee~~ Alternative Educational System Impact Fee calculation and make a determination as to whether such calculation complies with the requirements of this section and with the methodology established at the pre-application meeting.

(1) If the deputy county manager determines that the data, information and assumptions utilized by the applicant to calculate the alternative educational system impact fee comply with the requirements of this section ~~and that the calculation of the alternative educational system impact fee was by a generally accepted methodology,~~ then the ~~alternative educational system impact fee~~ Alternative Educational System Impact Fee shall be paid in lieu of the fee provided in section 105.21. The applicant shall present the written determination of the ~~deputy county manager~~ Deputy County Manager approving the ~~alternative educational system impact fee~~

Alternative Educational System Impact Fee at the time of payment of the ~~educational system impact fee~~ Educational System Impact Fee. The written approval of the Education System Impact Fee Study rates will be valid only if the uses and structures constructed on the property are the same as were proposed in the Study and, consistent with Section 105.44(b), the applicant pays said rates and obtains the building permits for the property subject to the approved Study within two (2) years of the Study approval date. If there is material change to any of the uses, structure or other characteristics that were relied upon for the calculation of the Alternative Educational System Impact Fee, the applicant shall have the option to either pay the County's Educational Impact Fee or submit a revised Alternative Educational Impact Fee study.

(2) If the deputy county manager determines that the data, information and assumptions utilized by the applicant to calculate the alternative educational system impact fee do not comply with the requirements of this section ~~or that the calculation of the alternative educational system impact fee was not by a generally accepted methodology~~, then the ~~alternative educational system impact fee~~ Alternative Educational System Impact Fee shall be rejected. Such rejection shall be in writing setting forth the reasons therefor and shall be provided to the applicant by certified mail. The applicant shall have fifteen (15) calendar days from the receipt of written notification of rejection to request a review hearing pursuant to section 105.49.

Secs. 105.25—105.30. - Reserved.

PART 4. - RESERVED

Secs. 105.31—105.40. - Reserved.

PART 5. - MISCELLANEOUS PROVISIONS

Sec. 105.41. Exemptions. The following shall be exempt from payment of the educational system impact fee:

(a) An alteration or expansion of an existing dwelling unit where no additional dwelling units are created.

(b) The construction of an accessory building or structure which will not create additional dwelling units.

(c) The replacement of an existing dwelling unit where no additional dwelling units are created.

(d) The construction of governmentally-owned residential housing.

(e) The issuance of a tie-down permit for a mobile home on which the applicable educational system impact fee has previously been paid for the lot upon which the mobile home is to be situated.

(f) Senior Housing. Any residential dwelling located within a community that is deed restricted to provide housing only for persons who are fifty-five (55) and older and restricts any children under the age of eighteen (18) from residing within the community. If the restriction is modified within the first thirty (30) years following the recording such that any person under the age of eighteen (18) is permitted to reside there, the Educational System Impact Fee in effect for that dwelling at that time shall be due and payable.

Sec. 105.42. Changes in size and use. Impact fees shall be calculated and imposed for the alteration, expansion or replacement of a building or dwelling unit or the construction of an accessory building if the alteration, expansion or replacement of the building or dwelling unit or the construction of an accessory building results in a land use determined to increase the number of dwelling units. The impact fee imposed shall be the impact fee imposed under this chapter for the building, dwelling unit or accessory building after construction, alteration, expansion or

replacement, less the impact fee that would be imposed for the land use prior to such alteration, expansion, replacement or construction.

Sec. 105.43. Vested rights. A written agreement which establishes, restricts, or prohibits the imposition of impact fees on property within the county entered into prior to the effective date of this chapter or any subsequent amendment to this chapter and which is between the owner and the school board, or between the owner and the county for property within the unincorporated area of the county, or between the owner and the appropriate city for property within municipal boundaries, shall be binding upon the county; such property shall not be subject to the provisions of this chapter but shall pay such impact fee rates as established in such written agreement provided a building permit utilizing the impact fee rates in such written agreement is obtained within one (1) year of the effective date of such written agreement. Any written agreement hereunder applicable to and based on a subsequent amendment to this chapter is limited to applying those impact fee rates established by this chapter and applicable to the property immediately prior to such amendment. Such written agreement is deemed void if not utilized within one (1) year of its effective date. Provided, however, if the agreement is amended subsequent to the effective date of this chapter or any subsequent amendment to this chapter increasing the net impact to the county educational system resulting from educational system impact construction, the impact fee imposed by section 105.21 shall be required to be paid as provided by this chapter on the increased net impact to the county educational system.

Sec. 105.44. Payment.

(a) Prior to the issuance of a building permit for any educational system impact construction by either the county or a city, an impact fee statement shall be issued to the applicant

for that proposed educational system impact construction. Such impact fee statement shall set forth the tentative impact fee due for the proposed educational system impact construction.

(b) Except as otherwise provided in this chapter, ~~prior to the issuance of a building permit,~~ the Board, by resolution, shall establish the time by which an applicant shall pay the appropriate educational system impact fee as established in section 105.21. The time for such payment shall be between: (i) submittal of a building permit application, and (ii) prior to the issuance of a certificate of occupancy for the development for which the building permit was issued. The Board, by resolution, may subsequently adjust the time at which payment of the impact fee is made within the foregoing parameters and such adjusted payment time shall not be effective for at least ninety (90) days from the date of adoption of such resolution.

(1) If the educational system impact construction is located within the unincorporated area of the county, the educational system impact fee shall be paid directly to the county.

(2) If the educational system impact construction is located within a municipality and the governing body of the municipality by interlocal agreement or otherwise has agreed to require payment of the impact fee ~~as a condition of the issuance by the municipality of a building permit,~~ at the time set forth in the payment resolution referenced in Section 105.44(b) above, then such impact fee shall be calculated and paid as follows:

(A) The municipality shall require presentation of an impact fee statement prepared by the county prior to issuance of a building permit by the municipality and shall also require presentation of proof of payment of impact fees in accordance with such payment resolution, but in no event later than prior to the issuance of a the certificate of occupancy for the development for which the building permit by the municipality was issued.

(B) The impact fee statement shall be issued and the impact fees shall be collected by the county or the municipality in accordance with the provisions of an interlocal agreement.

(3) If the educational system impact construction is located within a municipality and the governing body of the municipality has not agreed to require the issuance of an impact fee statement as a condition of the issuance by the municipality of a building permit and to require additionally the payment of impact fees, the impact fees shall be calculated and paid as provided in section 105.45.

(c) In the event the board or a municipality executing an interlocal agreement under this section issues separate building permits for a building or part of a building within a road impact construction, which educational system impact construction by design contemplates phased construction, the board and the applicant may enter into a recordable agreement for the phased payment of the impact fee applicable to that portion of the educational system impact construction represented by such building, provided, however, that all impact fees due shall be paid in full prior to ~~issuance of~~ time of impact fee payment established in the payment resolution referenced in Section 105.44(b) above for the final building permit. In the event no agreement is executed for such phased construction, the impact fees applicable to that portion of the educational system impact construction represented by such building shall be ~~prior to the issuance of the building permit~~ in accordance with the time of impact fee payment established in the payment resolution referenced in Section 105.44(b) above.

(d) The board and the developer may enter an agreement which provides for the deferred payment of impact fees under this chapter that would otherwise be due and payable for a period of up to one hundred and eighty (180) days from the date that the county or a city issues a

building permit for the project. In no instance shall such fees or other assessments be paid later than the issuance of the certificate of occupancy for the development for which the building permit was issued. An agreement such as, by way of example only, an affordability agreement required by section 30.290 shall provide for and determine whether the county or the developer shall pay the appropriate interest carrying costs resulting from the deferral of the payment of such fees.

(e) ~~In the event the impact fee rate for a particular educational system impact construction is changed subsequent to the issuance of an impact fee statement, the~~ The impact fee rate calculated in the issued impact fee statement or payment provisions set forth therein shall be the impact fee imposed for such educational system impact construction is valid for sixty (60) days and within that sixty (60) days the building permit must be issued. Once the building permit is issued, the impact fee rate as calculated in the issued impact fee statement remains the rate applicable to the building permit, regardless of when the impact fee is actually paid. In the event a building permit is not issued within sixty (60) days of the issuance of its impact fee statement, then the impact fee statement may be deemed expired and invalid requiring the property to obtain a new impact fee statement prior to issuance of the building permit.

(f) In the event that the board determines that there is a valid public purpose to allow deferral of the payment of fees required by this chapter such as, by way of example and not limitation, economic development or job growth, the county and the developer may enter into an agreement that provides for the deferred payment of impact fees required under this chapter that would otherwise be due and payable; provided, however, that the maximum period of deferment shall be for a period of one hundred eighty (180) days from the date that either the county or a city issues a building permit for the project; provided, further, however, that in no event shall the

payment of fees and other assessments be paid later than the issuance of a certificate of occupancy for the development for which the building permit was issued.

(g) The payment of the educational system impact fee shall be in addition to any other fees, charges or assessments due for the issuance of a building permit or subsequent inspections under such building permit.

(h) The obligation for payment of the educational system impact fee shall run with the land. However, this section shall not be construed to relieve an applicant of responsibility or liability for payment of the impact fees imposed by this chapter.

(i) Impact fees collected by a city shall be held separately and distinctly from all other revenues and shall be transferred on a monthly basis to the county. Such transfer shall occur by the 15th day of each month for those impact fees collected in the previous month. As a collection allowance for reimbursement for the cost of administration and handling of such impact fees, the city shall be permitted to retain three (3) percent of each impact fee collected, not to exceed a maximum of two hundred fifty dollars (\$250.00) per impact fee assessment plus the interest earned on such impact fees.

(j) Impact fees collected by the county and impact fees transferred to the county by the cities shall be held separately and distinctly from all other revenues and shall be transferred on a quarterly basis to the school board. As a collection allowance for reimbursement for the cost of administering and handling of such impact fees, the county shall be permitted to retain three (3) percent of each impact fee collected by the county not to exceed a maximum of two hundred fifty dollar (\$250.00) per impact fee assessment, plus the interest earned on the impact fees collected by the county and on impact fees transferred to the county by the cities.

Sec. 105.45. Collection of impact fee when not paid by mistake, inadvertence or by agreement; alternative collection in municipalities. In the event the educational system impact fee is not ~~paid prior to the issuance of a building permit~~ timely paid in accordance with the time of payment resolution referenced in Section 105.44(b) above for the affected educational system impact construction, because of mistake or inadvertence or in the event a municipality has not agreed to assist in the calculation and collection of impact fees as recognized in section 105.44, or if by mutual consent the applicant and the owner and the county agree to defer payment for up to sixty (60) calendar days, the county shall proceed to collect the educational system impact fee as follows:

(a) ~~If a building permit has previously been issued~~ the educational system impact fee has not been timely paid in accordance with the time of payment resolution referenced in Section 105.44(b) above, the county shall serve, by certified mail, return receipt requested, or hand delivery, a “impact fee statement notice” upon the applicant at the address set forth in the application for a building permit, and the owner at the address appearing on the most recent records maintained by the property appraiser of the county. The county shall also file a copy of the impact fee statement notice in the official records of the county. Service of the impact fee statement notice shall be deemed notice of the impact fees due and service shall be deemed effective on the date the return receipt indicates the notice was received by either the applicant or the owner, or the date said notice was hand delivered to either the applicant or owner, whichever occurs first. Provided, however, that should none of these methods of service be successful, service shall be deemed effective on the date the copy of the impact fee statement notice was filed in the official records of the county. The “impact fee statement notice” shall contain the legal description of the property and shall advise the applicant and the owner as follows:

(1) The amount due and the general purpose for which the educational system impact fee was imposed;

(2) That administrative review pursuant to section 105.48 may be requested no later than forty-five (45) calendar days from the date of receipt of the impact fee statement notice, by making application to the deputy county manager;

(3) That the county shall file a release of the impact fee statement notice in the official records of the county upon collection of payment in full.

(4) That the educational system impact fee shall be delinquent if not paid and received by the county within sixty (60) calendar days of the date the impact fee statement notice is received, excluding the date of receipt or the applicant has not entered into a binding recordable agreement with the county, that would run with the land, to pay the fee at the time of issuance of a building permit. Upon becoming delinquent, such impact fees shall be subject to the imposition of a delinquent fee and interest on the unpaid amount until paid.

(5) That in the event the educational system impact fee becomes delinquent, a lien against the property for which the building permit was secured shall be recorded in the official records book of the county.

(b) The educational system impact fee shall be delinquent if, within sixty (60) calendar days from the date of the receipt of the impact fee statement notice by either the applicant or the owner, or the date said notice was filed in the official records the impact fees have not been paid and received by the county, or the applicant has not entered into a binding, recordable agreement with the county, that would run with the land, to pay the fee within sixty (60) calendar days of issuance of a building permit. Said time periods shall be calculated on a calendar day basis, including Sundays and legal holidays, but excluding the date of the earliest receipt of said impact

fee statement notice. In the event the last day falls on a Sunday or legal holiday, the due date shall be the next business day. Upon becoming delinquent, a delinquency fee equal to ten (10) percent of the total impact fees imposed shall be assessed. The delinquent impact fee, plus the delinquency fee, shall bear interest at the statutory rate for final judgments calculated on a calendar day basis, until paid.

(c) Should the educational system impact fee become delinquent as set forth in subsection (b), the county shall serve, by certified mail return receipt requested, a “notice of lien” upon the delinquent applicant if the building is under construction at the address indicated in the application for the building permit, and upon the delinquent owner at the address appearing on the most recent records maintained by the property appraiser of the county. The notice of lien shall notify the delinquent applicant and owner that due to the failure to pay the educational system impact fees, the county shall file a claim of lien with the clerk of the circuit court.

(d) Upon mailing of the notice of lien, the county manager shall file a claim of lien with the clerk of the circuit court for recording in the official records of the county. The claim of lien shall contain the legal description of the property, the amount of the delinquent impact fee and the date of its imposition. Once recorded, the claim of lien shall constitute a lien against the property described therein. Upon direction of the board, the county attorney shall proceed to collect, foreclose or otherwise enforce the lien.

(e) One year after recording the claim of lien, a suit may be filed to foreclose said lien. The foreclosure proceedings shall be instituted, conducted and enforced in conformity with the procedures for the foreclosure of municipal special assessment liens, as provided in sections 173.04 through 173.12, inclusive, Florida Statutes, which provisions are hereby incorporated in their entirety to the same extent as if such provisions were set forth verbatim.

(f) The liens for delinquent impact fees shall remain liens, coequal with the liens of all state, county, district and municipal taxes, superior in dignity to all other subsequently filed liens and claims, until paid as provided herein.

(g) The collection and enforcement procedures set forth in this section shall be cumulative with, supplemental to and in addition to, any applicable procedures provided in any other ordinances or administrative regulations of the county or any applicable law or administrative regulation of the State of Florida. Failure of the county to follow the procedure set forth in this section shall not constitute a waiver of its rights to proceed under any other ordinances or administrative regulations of the county or any applicable law or administrative regulation of the State of Florida.

Sec. 105.46. Developer contribution credits.

(a) The deputy county manager shall grant a credit against the impact fee for the donation of land and for the construction of an improvement or addition to the county educational system that is required pursuant to a development order or made voluntarily. Such donations or constructions shall be subject to the approval of the deputy county manager.

(b) Prior to issuance of a building permit, an applicant who desires to receive a credit shall submit a proposal for donations or contributions to the county educational system. The proposal shall include:

- (1) A designation of the educational system impact construction for which the plan is being submitted;
- (2) A legal description of the land to be donated;
- (3) A written appraisal of such land prepared in conformity with subsection (g)(1);

(4) A list of the contemplated contribution to the county educational system;

(5) An estimate of the proposed construction costs certified by a professional architect or engineer; and

(6) A proposed time schedule for completion of the proposed plan.

(c) The proposal shall be filed with the deputy county manager who shall transmit a copy to the school board. The school board shall review the proposal and provide its written recommendation as to whether to accept the contribution and the valuation of the contribution to the deputy county manager within thirty (30) calendar days.

(d) The deputy county manager shall review the proposal and shall determine:

(1) If such proposal is in conformity with contemplated improvements and additions to the county educational system;

(2) If the proposed donation of land and construction by the applicant is consistent with the public interest; and

(3) If the proposed time schedule is consistent with the capital improvement program for the county educational system.

(e) The decision of the deputy county manager as to whether to accept the proposal shall be in writing and issued within fifteen (15) calendar days of receiving the school board recommendation. A certified copy shall be provided to the applicant; the governmental entity responsible for issuing the building permit and the school board shall also be provided a copy.

(f) Upon approval of a proposal, the deputy county manager shall determine the amount of the credit based upon the value of the contribution and shall approve a timetable for completion of the plan. After determination by the deputy county manager of the amount of credit

and the timetable for completion, the applicant shall have the opportunity to withdraw the proposed plan.

(g) The amount of developer contribution credit shall be determined according to the following standards of valuation:

(1) The value of donated land shall be based upon a written appraisal of fair market value by a qualified and professional appraiser based upon comparable sales of similar property between unrelated parties in a bargaining transaction;

(2) The cost of anticipated construction to the county educational system shall be based upon cost estimates certified by a professional architect or engineer; and

(3) The land and construction contributions shall only provide improvements or additions to the county educational system required to accommodate growth.

(h) All construction cost estimates shall be based upon, and all construction plans and specifications shall be in conformity with the educational system construction standards. All plans and specifications shall be approved by the deputy county manager prior to commencement of construction.

(i) A credit for the donation of land shall be granted as the property is conveyed to and accepted by the school board.

(j) A credit for the construction of an improvement or addition to the county educational system shall be granted at such time as:

(1) The construction is completed, approved and accepted by the school board;

or

(2) A performance bond or an irrevocable letter of credit is posted with the deputy county manager in favor of the county, in an amount representing the difference between the impact fees and the amount of the credit.

(k) Upon completion of the construction and its approval and acceptance by the deputy county manager, any escrow of cash, performance bond or letter of credit held by the deputy county manager shall be returned to the applicant and shall be deemed discharged.

(l) In the event the amount of the credit exceeds the amount of impact fees due by the applicant, the school board may agree to reimburse the excess credit to the applicant from future impact fee receipts.

(m) A credit shall be given as a fixed dollar deduction from the impact fee as it becomes due and payable.

Sec. 105.47. Rebates for low income housing. By resolution, the board may authorize and establish a procedure for administering rebates of impact fees for low and very low income housing if a suitable revenue source is available.

Sec. 105.48. Administrative review procedures.

(a) An applicant or owner who is required to pay an impact fee pursuant to section 105.21 shall have the right to request a special review by the deputy county manager.

(b) Such review shall be for the purpose of the deputy county manager rendering a determination concerning the application or calculation of the appropriate impact fee pursuant to sections 105.21 or 105.22.

(c) Except as otherwise provided in this chapter, such review shall be requested by the applicant or owner within forty-five (45) calendar days, including Sundays and legal holidays, of the date of receipt of the impact fee statement, provided however that a request must be filed prior

to the date of issuance of the building permit. Failure to request a review within the time provided shall be deemed a waiver of such right.

(d) A written request for review shall be filed with the deputy county manager who shall provide a copy to the school board. The request shall contain the following:

- (1) The name and address of the applicant or owner;
- (2) The telephone number at which the applicant or owner may be reached during daytime hours;
- (3) The legal description of the property in question;
- (4) If issued, the date the building permit was issued and the building permit number;
- (5) The impact fee statement number;
- (6) A brief description of the nature of the construction to be undertaken pursuant to the building permit;
- (7) If paid, the date the impact fee was paid; and
- (8) A statement of the reasons why the applicant or owner is requesting the review, including any supporting information and site or construction plan.

(e) Within fifteen (15) calendar days of receipt of such request, the deputy county manager shall forward to the applicant and owner his written review and determination concerning the impact fee.

(f) The applicant or owner shall have fifteen (15) calendar days from the receipt of the written special review or; in the event of lack of response by the deputy county manager, thirty (30) days from filing of the request for review, whichever is later, to request a hearing pursuant to section 105.49.

Sec. 105.49. Review hearings.

(a) An applicant or owner who is required to pay an impact fee shall have the right to request a review hearing by the board.

(b) Such hearing shall be limited to the review of the following:

(1) The special review determination made by the deputy county manager concerning the application or calculation of the appropriate impact fee pursuant to section 105.48 or, in the event of non-response of the deputy county manager direct review concerning the application or calculation of the appropriate impact fee pursuant to this section.

(2) The failure to grant or granting insufficient alternative educational system interim impact fee pursuant to section 105.24.

(3) The failure to grant or the granting of insufficient developer contribution credit pursuant to section 105.46.

(c) Except as otherwise provided in this chapter, such hearing shall be requested by the applicant or owner within forty-five (45) days including Sundays and legal holidays of the earliest date of the following, whichever is applicable:

(1) The impact fee special review determination;

(2) The determination as to an alternative educational system impact fee; or

(3) The determination as to the amount of a developer contribution credit.

Failure to request a hearing within the time provided shall be deemed a waiver of such right.

(d) The written request for hearing shall be filed with the office of the county manager and shall contain the following:

(1) The name and address of the applicant and owner;

(2) The legal description of the property in question;

- (3) If issued, the date the building permit was issued and the building permit number;
- (4) The impact fee statement number;
- (5) A brief description of the nature of the construction being undertaken pursuant to the building permit;
- (6) If paid, the date the educational system impact fee was paid; and
- (7) A statement of the reasons why the applicant or owner is requesting the hearing, including any supporting information and site or construction plans.

(e) Upon receipt of such request, the county manager shall provide a copy to the school board and schedule a hearing before the board at a regular meeting or special meeting called for the purpose of conducting the hearing and shall provide the applicant or owner written notice of the time and place of the hearing. Such hearing shall be held within forty-five (45) days of the date the request for hearing was filed.

(f) Such hearing shall be before the board and shall be conducted in a manner designed to obtain all information and evidence relevant to the requested hearing. Formal rules of civil procedure and evidence shall not be applicable; however, the hearing shall be conducted in a fair and impartial manner with each party having an opportunity to be heard and to present information and evidence.

Sec. 105.50. County educational system advisory committee.

(a) The board hereby appoints the school board to act as the Seminole County Educational System Advisory Committee for the purposes of periodically studying relevant data

related to growth and its impact on the educational system and making recommendations based on that study to the board.

(1) The first such review shall be initiated prior to September 1, 1993. Second and subsequent reviews shall be conducted biennially thereafter. However, the failure of the committee to initiate its review in a timely manner shall not affect the validity of this chapter. The committee shall set its own rules of procedure and meeting dates and shall meet additionally as requested by the board.

(2) The committee shall consider new estimates of population per household, costs related to the acquisition of land, buildings, furniture, and equipment for the county educational system necessitated by growth and suggest adjustments as necessary to the assumptions, conclusions or findings set forth in the impact fee study. The advisory committee shall also review the availability and adequacy of revenue sources to construct improvements and additions to the county educational system required to accommodate existing development. As a result of its own review and the recommendations developed by the citizens advisory group on the educational system as provided in paragraph (b) of this section, the committee shall provide comments and recommendations as are necessary and appropriate to assist the board in its review pursuant to section 105.51.

(b) To assist the committee in its review, the committee shall appoint a citizens advisory group on the educational system consisting of residents of the county representing a variety of interests, including but not limited to, the governing bodies of the cities and the county, the real estate profession, the homebuilders, the chamber of commerce, the parent-teachers associations, and the business advisory board or other groups serving as a successor in function. The citizens advisory group shall review the impact fees and the impact fee study and shall provide

comments and recommendations as are necessary and appropriate to assist the committee in its review pursuant to paragraph (a) of this section.

Sec. 105.51. Chapter review requirements. This chapter and the impact fee study shall be reviewed by the board at least once every ~~four (4)~~ three (3) years unless otherwise directed by the Board of County Commissioners. The board shall receive and consider the comments and recommendations of the county educational system advisory committee and the citizens advisory group on the educational system and may revise the impact fee study or the impact fees as appropriate and necessary. The failure of the board to initiate its review in a timely manner shall not affect the validity of this chapter.

Sec. 105.52. Declaration of exclusion from Administrative Procedures Act. Nothing contained in this chapter shall be construed or interpreted to include the county in the definition of agency contained in Section 120.52, Florida Statutes, or to otherwise subject the County to the application of the Administrative Procedures Act, Chapter 120, Florida Statutes. This declaration of intent and exclusion shall apply to all proceedings taken as a result of or pursuant to this chapter.

Section 2. Codification. It is the intention of the Board of County Commissioners that the provisions of this Ordinance will become and be made a part of the Land Development Code of Seminole County, Florida, and that the word “ordinance” may be changed to “section”, “article”, or other appropriate word or phrase and the sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; providing, however, that Sections 2, 3 and 4 of this Ordinance shall not be codified.

Section 3. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, it is the intent of the Board of County Commissioners that such invalidity will 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 declared severable.

Section 4. Effective date. This Ordinance will take effect upon filing a copy of this Ordinance with the Department of State by the Clerk to the Board of County Commissioners. Notwithstanding the above, pursuant to Section 163.31801(3)(d), Florida Statutes, the revised Educational System Impact Fee Rates as set forth in Section 105.21(b) and the time by which an applicant shall pay the appropriate educational system impact fee as that time is to be established by resolution pursuant to Section 105.44(b) of the Land Development Code of Seminole County, Florida, as amended by this Ordinance, shall be effective ninety (90) days from the date of adoption of this Ordinance. Until the resolution establishing the time of payment of the educational system impact fee pursuant to Section 105.44(b) is effective, the time of such collection shall remain at prior to the issuance of a building permit.

BE IT ORDAINED by the Board of County Commissioners of Seminole County, this

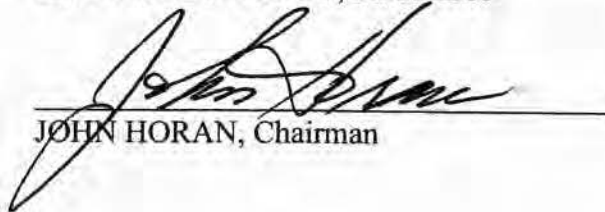
9th day of *Jan*, 20*18*

ATTEST:



GRANT MALOY
Clerk to the Board of
County Commissioners of
Seminole County, Florida

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA



JOHN HORAN, Chairman

PHC/org
1/9/18

P:\CAO Protected\Misc\Master Docs\SJS Ordinances\2018\School Impact Fee Ordinance Jan9(18) FINAL.docx