

**ORDINANCE 2021-85**

**An ordinance of the Board of County Commissioners of Osceola County, Florida; Amending Chapter 24, Osceola County Code, entitled Impact Fees; Amending Article I, General Provisions; Amending Article III, Educational System Impact Fees; Providing for Severability; Providing for Conflict; Providing for Inclusion in the Code; Providing for an Effective Date; and Providing for a Grace Period.**

**WHEREAS**, the School Board has requested the County adopt its proposed school impact fees to ensure that future residential construction contributes its fair share of the cost of improvements and additions to the educational system necessary to accommodate such growth; and

**WHEREAS**, the School Board's last impact fee study was prepared by Tindale Oliver in December of 2017; and

**WHEREAS**, the School District has seen significant residential growth since December 2017, which growth is expected to continue in future years; and

**WHEREAS**, the School Board selected Tischler-Bise as its consultant to prepare an updated impact fee study; and

**WHEREAS**, throughout Tischler-Bise's process of gathering and reviewing data and preparing its preliminary analysis, Tischler-Bise continued to meet with both the School Board and community groups, including the Kissimmee-Osceola Chamber's Growth Management Task Force, the St. Cloud Chamber, and the Greater Orlando Home Builders Association (GOBA); and

**WHEREAS**, at the conclusion of the School District's process, Tischler-Bise prepared a School Impact Fee Study, dated September 8, 2021, which states that "[t]he School District of Osceola County is updating its impact fees in order to fund capital facilities needed to meet the demand created by new residential growth in the County"; and

**WHEREAS**, the School Impact Fee Study anticipates that new residential development in the County will generate 6,032 additional elementary students, 3,582 middle school students, and 5,737 high school students, or a total of 15,350 additional students over the next ten years; and

**WHEREAS**, the School Impact Fee Study recognizes that the School District has planned capital expenditures to increase permanent capacity 5,581 additional seats over the next five years, and that additional permanent capacity will be needed in years 6-10; and

**WHEREAS**, on September 21, 2021, the School Board approved the School Impact Fee Study as prepared by TischlerBise, which the Superintendent of Schools subsequently forwarded to the County for approval by the Board of County Commissioners as required by Section 163.31801, Florida Statutes; and

**WHEREAS** pursuant to section 1013.33, Florida Statutes, the School Board and the Board of County Commissioners are required to coordinate the planning of educational facilities with the planning of residential development and the providing of other necessary services; and

**WHEREAS**, the increased school impact fees will ensure that future growth contributes its fair share of the cost of required capital improvements; and

**WHEREAS**, Section 125.01, Florida Statutes, grants the Osceola County Board of County Commissioners, hereinafter the "Board," all powers necessary to carry on county government; and

**WHEREAS**, Section 163.3202(3), Florida Statutes, encourages the use of innovative land development regulations, including the use of impact fees to implement the goals, objectives and policies of a county's comprehensive plan; and

**WHEREAS**, the Osceola Board of County Commissioners adopted Ordinance No. 92-27, which established the Educational System Impact for the School Board of Osceola County; and

**WHEREAS**, Ordinance No. 92-27 was amended by Ordinance No. 99-13, Ordinance No. 02-07, Ordinance No. 03-06, Ordinance No. 03-42, Ordinance No. 05-14, Ordinance No. 10-11, Ordinance No. 2015-16, and Ordinance No. 2018-21; and

**WHEREAS**, the Ordinance provides for certain exemptions from the Educational System Impact Fee, as set forth in Section 24-42 when there is sufficient justification to warrant an exemption; and

**WHEREAS**, Chapter 509, Florida Statutes, allows for construction and utilization of single-family and multi-family dwelling units to be operated as vacation rentals, as defined in Sections 509.242(1)(c) and 509.013(4), Florida Statutes, subject to local laws, ordinances, and regulations as further set forth in Section 509.103(7), Florida Statutes; and

**WHEREAS**, the Board, the City of Kissimmee, and the City of St. Cloud allow for construction and operation of vacation rentals (hereinafter "Vacation Villas") subject to each jurisdiction's respective codes and regulations; and

**WHEREAS**, the Board has determined that the impacts to the Educational System created by Vacation Villas (as defined herein) are significantly less than those created by Residential Construction; and

**WHEREAS**, the Board recognizes that construction of Vacation Villas contributes greatly to the local economy through increases in local employment, generation of sales tax and tourist tax revenues, increases in property values and associated ad valorem revenues, and through other associated economic impacts generated by tourists who desire to stay in Vacation Villas due to their proximity to area attractions and the amenities such communities provide; and

**WHEREAS**, the Board further recognizes that Vacation Villas, when in compliance with the terms and conditions imposed herein, do not create impacts to the Educational System, unlike

those that result from traditional Residential Construction; and

**WHEREAS**, Vacation Villas do not otherwise result in the need for increased funding for costs and improvements to the Educational System; and

**WHEREAS**, the Board finds that the exemption created herein for Vacation Villas is consistent with the Comprehensive Plan and furthers the interests of Osceola County residents; and

**WHEREAS**, Section 163.31801, Florida Statutes, imposes specific requirements on an impact fee adopted by ordinance, including use of the most recent and localized data, use of a separate accounting fund for revenues and expenditures of such impact fee, a limit on administrative charges for collection of impact fees to actual costs, and a requirement that notice be provided no fewer than 90 days before the effective date of an ordinance or resolution imposing a new or amended impact fee; and

**WHEREAS**, the Board has determined this Ordinance is in the best interest of the citizens of Osceola County, Florida.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of Osceola County, Florida, that:

*NOTE: Language in Chapter 24 that is ~~struckthrough~~ is language proposed to be deleted; underlined language is language proposed to be added, language that is not ~~struckthrough~~ or underlined is not to be changed and \* \* \* represents sections of the Code of Ordinances that have been skipped and remain unchanged.*

**Section 1. Recitals.** That the foregoing recitals are true and correct and incorporated herein by reference.

**Section 2. Amendments to Chapter 24.** Chapter 24, Osceola County Code, entitled Impact Fees, is hereby amended to read as follows:

#### **CHAPTER 24 – IMPACT FEES**

\* \* \*

#### **ARTICLE III. EDUCATIONAL SYSTEM IMPACT FEES**

\* \* \*

Sec. 24-36. - Findings.

The board of county commissioners of Osceola County ascertains, determines and declares:

\* \* \*

- (8) That 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 residential construction as presented in the study entitled "school impact fee update study" dated ~~December 4,~~

~~2017 September 7, 2021~~, is hereby acknowledged by the county, and such projections are hereby found to conform with the comprehensive plan. ~~The school impact fee update study contains three (3) different fee schedule options, and after due and thorough consideration of existing county administrative and land use policies, option 1, as set out in the school impact fee update study, has been selected as the most appropriate and equitable fee schedule.~~

- (9) An interlocal agreement regarding education impact fees was entered into between the county, the school board, St. Cloud and Kissimmee and is dated July 31, 1999, as amended on April 19, 2004, ~~and on August 16, 2010, and on April 20, 2015,~~ and on December 13, 2018. It is anticipated that an amended and restated interlocal agreement will be entered into between the county, the school board and the cities to permit the imposition of an educational system impact fee within all areas of the county. Such interlocal agreement will also govern the collection, administration, and use of the impact fee.

\* \* \*

- (12) That the county acknowledges that there currently exist deficiencies in the educational system capital improvements which will be addressed by the school board with revenues other than ~~then~~ educational system impact fees.

\* \* \*

Sec. 24-37. - Definitions applicable to educational system impact fee.

The following words, terms and phrases, when used in this chapter 24, article III, educational system impact fees, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning.

~~Affordable workplace essential services personnel housing~~ shall mean a dwelling unit which is offered for sale or rent to income eligible persons who are employed in occupations and professions in which they are considered essential services personnel, as consistent with F.S. § 420.9075, and any applicable local housing assistance plan, and which monthly rent or monthly mortgage payments, including taxes, insurance and utilities, do not exceed thirty (30) percent of that amount which represents the percentage of the median adjusted gross income for low-income persons and very-low-income persons.

~~Annual educational system rate resolution~~ shall mean the resolution described in section 24-39 and 24-47 hereof, establishing educational system impact fee rates.

\* \* \*

Sec. 24-38. - Acceptance of impact fee study.

The board hereby acknowledges and incorporate by reference herein that study entitled "school impact fee update study," dated ~~December 4, 2017~~ September 7, 2021, including the

assumptions, conclusions and findings in such study as to the determination of anticipated costs of the additions to the county educational system required to accommodate growth.

Sec. 24-39. - Imposition of educational system impact fee.

- (a) All residential construction occurring within the county, both within the unincorporated area and within the cities, shall pay the educational system impact fee established in accordance with this Code prior to the issuance of a building permit.
- (b) The educational system impact fee rates for Osceola County shall be those established in the school impact fee update study dated ~~December 4, 2017~~ September 7, 2021, as shown below. Future adjustments shall be made in accordance with sections ~~24-46 and 24-47~~.

Residential Category	Unit	Calculated Impact Fees		
		Countywide	Vacation Villas	Short-Term Rentals
Single Family Detached	du	<u>\$12,923.00</u>	N/A	<u>\$6,034</u>
		<del>11,823.00</del>		<del>6,264.00</del>
Townhouse	du	<u>\$8,262.00</u>	N/A	<u>\$4,620</u>
		<del>7,591.00</del>		<del>3,951.00</del>
Multi-Family	du	<u>\$12,165.00</u>	N/A	<u>\$7,534</u>
		<del>11,362.00</del>		<del>7,033.00</del>
Condominium	du	<u>\$4,702.00</u>	N/A	<u>\$2,473</u>
		<del>4,243.00</del>		<del>2,325.00</del>
Mobile Home	du	<u>\$8,740.00</u>	N/A	<u>N/A</u>
		<del>7,672.00</del>		<del>7,672.00</del>

(c) An increase to a current impact fee rate of not more than twenty-five (25) percent of the current rate must be implemented in two equal annual increments beginning with the date on which the increased fee is adopted.

(d) An increase to a current impact fee rate which exceeds twenty-five (25) percent but is not more than fifty (50) percent of the current rate must be implemented in four equal installments beginning with the date the increased fee is adopted.

(e) An impact fee increase may not exceed fifty (50) percent of the current impact fee rate.

(f) An impact fee may not be increased more than once every four (4) years.

(g) An impact fee may not be increased retroactively for a previous or current fiscal or calendar year.

(h) By establishing the need for such an increase, the school district may increase the impact fee rate beyond the phase-in limitations established under paragraph (b), paragraph (c), paragraph (d), or paragraph (e) provided the following criteria are met:

(1) A demonstrated need study justifying any increase in excess of those authorized in paragraph (b), paragraph (c), paragraph (d), or paragraph (e) has been completed within the twelve (12) months before the adoption of the impact fee increase and expressly demonstrates the extraordinary circumstances necessitating the need to exceed the phase-in limitations.

(2) The School Board has held not less than two publicly noticed workshops dedicated to the extraordinary circumstances necessitating the need to exceed the phase-in limitations set forth in paragraph (b), paragraph (c), paragraph (d), or paragraph (e).

(3) The impact fee increase ordinance is approved by at least two-thirds vote of the School Board.

\* \* \*

Sec. 24-41. - Alternative educational system impact fee calculation.

\* \* \*

(d) The proposed alternative educational system impact fee and support documentation shall be submitted to the superintendent who shall review the calculation and provide a preliminary written determination to the applicant within sixty (60) calendar days of submittal as to whether such calculation complies with the requirements of this section. All fees associated with the review shall be paid by the applicant submitting the alternative educational system impact fee.

\* \* \*

Sec. 24-42. - Educational system impact fees exemptions.

The following development shall be exempted from payment of the educational system impact fee.

(1) Subject to the availability of other school board revenues to pay for this exemption, any residential construction that qualifies as ~~affordable-workforce~~ essential services personnel housing and meets the following requirements:

a. Any person seeking an ~~affordable-workforce~~ essential services personnel housing exemption shall file with the superintendent an application for exemption prior to the

issuance of a building permit for the proposed residential construction. The application for exemption shall contain the following:

1. The name and address of the owner;
  2. The legal description of the residential construction;
  3. The number of bedrooms within the residential construction;
  4. The proposed selling price or the proposed rental price, as applicable;
  5. Evidence that the residential construction shall be occupied by income-eligible persons;
  6. Evidence that the residential construction shall be occupied by persons employed in occupations and professions in which they are considered essential services personnel, as consistent with F.S. § 420.9075, and any applicable local housing assistance plan; ~~and~~
  7. Evidence that the residential construction is part of a multi-family project, which is funded by a government affordable housing program, if applicable; and
  8. The Filing Fee adopted is set forth in Resolution #21-302R. Such fees may be changed from time to time but shall not exceed the actual cost of the review fees to process the application.
- b. For residential construction to receive an affordable-~~workforce~~ essential services personnel housing exemption, it must meet all the restrictions of affordable-~~workforce~~ essential services personnel housing as provided herein and these restrictions must continue for a period of at least thirty (30) years from the date of issuance of a certificate of occupancy. Such restrictions must either be contained within the deed for the residential construction; the terms, restrictions and conditions of a direct government grant or subsidy that will fund the residential construction; or within the terms of a development agreement between the county and the owner.
- c. If the residential construction meets the requirements for an affordable-~~workforce~~ essential services personnel housing exemption, the superintendent shall issue an exemption. The exemption shall be presented in lieu of payment of the educational system impact fees.
- d. The amount of the educational system impact fees shall not be increased to replace any revenue lost due to the affordable-~~workforce~~ essential services personnel housing exemption.
- e. No exemption of this type shall be granted for a residential construction which consists of a mobile home.
- f. In the event the residential construction fails to meet the restrictions of affordable-~~workforce~~ essential services personnel housing as provided herein within the 30-year period following the issuance of the certificate of occupancy such that the property no longer qualifies as affordable-~~workforce~~ essential services personnel housing and is no longer occupied by income-eligible persons, the educational system impact fees in effect at the time of the change in circumstances shall be immediately due.



- (2) Any residential construction that qualifies as housing for older persons and meets the following requirements:
- a. Any person seeking a housing for older persons exemption shall file with the superintendent an application for exemption prior to receiving a building permit for the proposed residential construction. The application for exemption shall contain the following:
    1. The name and address of the owner;
    2. The legal description of the residential construction;
    3. Evidence that the residential construction is within a community or subdivision that is operated as housing for older persons in compliance with the terms and provisions of the Federal Fair Housing Act, Title VIII of the Civil Rights Acts of 1968, as amended by the Fair Housing Amendments Act of 1988 and the Housing for Older Persons Act of 1995, 42 U.S.C. §§ 3601-19, or its statutory successor in function;
    4. A copy of the recorded declaration of covenants and restrictions that run with the land, cannot be revoked or amended for a period of at least thirty (30) years from recording, and that prohibit any person under the age of eighteen (18) years of age from residing within any dwelling unit on the property as a permanent resident; and
    5. The Filing Fee adopted is set forth in Resolution #21-302R. Such fees may be changed from time to time but shall not exceed the actual cost of the review fees to process the application.
  - b. If the residential construction meets the requirements for a housing for older persons exemption, the superintendent shall issue an exemption. The exemption shall be presented in lieu of payment of the educational system impact fee.
  - c. The amount of the educational system impact fee shall not be increased to replace any revenue lost due to the housing for older persons exemption.
  - d. In the event the recorded declaration of covenants and restrictions is breached or otherwise modified within the 30-year period following recording such that persons under the age of eighteen (18) are allowed to reside as permanent residents in any residential construction receiving a housing for older persons exemption, the educational system impact fee in effect at the time of the change in circumstances shall be due.
  - e. Upon written notification by the school board that a student under the age of eighteen (18) has been registered to attend school and is residing at a Housing for Older Persons community, the property owner's association shall have sixty (60) calendar days from the date of the written notification in which to demonstrate to the school board that the subject student registration was in error or, alternatively, that the subject student no longer resides in the Housing for Older Persons. Otherwise, payment of the educational system impact fee shall be made by the property owner's association within ninety (90) calendar days from the date of the written notification.



- (3) Subject to the availability of other school board revenues to pay for this exemption, any residential construction that qualifies as vacation villas and meets the following requirements:
- a. Any person seeking a vacation villas exemption ("VV exemption") shall file with the superintendent an application for exemption prior to receiving a building permit for the proposed residential construction. The application for exemption shall contain the following:
    1. Name and address of the owner(s);
    2. Legal description of the vacation villas property;
    3. Evidence of compliance with applicable zoning and land use regulations;
    4. Evidence that the vacation villas are not designed or intended for permanent occupancy, including but not limited to:
      - A. The lack of availability of mail delivery services;
      - B. Regulations that preclude guests from occupying a specific unit for more than thirty (30) days within twelve (12) months of the stay;
      - C. Requirements for rental rate calculations to be made on a daily or weekly basis;
      - D. Sales and marketing materials that expressly provide that the permanent occupancy of a vacation villas is prohibited;
      - E. A letter of commitment filed with the developer's application certifying the residential construction identified within the developer application will qualify as vacation villas and meet the exemption requirements of the educational impact fee ordinance;
      - F. ~~A filing fee of two thousand dollars (\$2,000.00).~~ The Filing Fee adopted is set forth in Resolution #21-302R. Such fees may be changed from time to time but shall not exceed the actual cost of the review fees to process the application;
      - G. A recorded plat denoting the lot(s) to be identified as vacation villas;
      - H. A single business tax receipt for each residential dwelling unit proposed for exemption. This requirement will need to be maintained each year of the exemption;
      - I. A deed restriction that notifies the owners or prospective owners that because students are not to reside in the property, the school board has no plans for transportation from the property;
      - J. A deed restriction requiring the owners or prospective owners to sign an owner acknowledgement specifically providing that the lots are not eligible for homestead exemption for thirty (30) years; and
      - K. A deed restriction providing that the articles of the deed restrictions relating to the school district may not be amended without the signed

consent of the superintendent for the school district of Osceola County, Florida.

5. A copy of the proposed declaration of covenants and restrictions (the "declaration") that runs with the land and contains the following provisions, which cannot be revoked or amended without permission from the school board for a period of at least thirty (30) years from recording:
  - A. Restrictions that require all of the vacation villas governed by the declaration to be used exclusively for transient occupancy, with any use or occupancy being limited to no more than thirty (30) days or one (1) calendar month at a time within a twelve-month period, whichever is less, and
  - B. Restrictions that authorize and require the property owner's association to pay to the school board an amount equal to the applicable educational system impact fee for a dwelling unit, in the event that a student under the age of ~~nineteen (19)~~ eighteen (18) has been registered to attend school, and such registration indicates the student's residency is at a vacation villas.
- b. Upon written notification by the school board that a student under the age of ~~nineteen (19)~~ eighteen (18) has been registered to attend school and is residing at a vacation villa, the property owner's association shall have sixty (60) calendar days from the date of the written notification in which to demonstrate to the school board that the subject student registration was in error or, alternatively, that the subject student no longer resides in the vacation villas. Otherwise, payment of the educational system impact fee shall be made by the property owner's association within ninety (90) calendar days from the date of the written notification.

\* \* \*

#### Sec. 24-44. - Review requirement.

This article and the educational system impact fee study shall be reviewed by the county and school board at least every ~~three~~ four years. The initial and each review thereafter shall consider new estimates of population and other socioeconomic data, changes in construction, land acquisition and related costs, and adjustments to the assumptions, conclusions or findings set forth in the study adopted by section 24-39. The purpose of this review is to evaluate and revise, if necessary, the educational system impact fee to ensure that the fee does not exceed the reasonably anticipated costs associated with the improvements and additions necessary to offset the demand generated by growth. In the event the review required by this section alters or changes the assumptions, conclusions and findings of the study adopted by reference in section 24-39, the study shall be amended and updated to reflect the assumptions, conclusions and findings of such reviews and section 24-39 shall be amended to adopt by reference such updated studies.

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#### Sec. 24-46. — Periodic impact fee rate adjustment.

- (a) Annually, if requested by the school board, the board shall adopt an annual educational system rate resolution at least 90 days prior to October 1 of each year, commencing in 2016, unless a full review of this article and the educational system impact fee study is completed pursuant to section 24-44 herein before October 1 of each year.
- (b) The annual educational system rate resolution shall set forth adjusted educational system impact fee rates for the educational system impact fee land use categories reflecting changes in the cost of impact fee components for the upcoming year as set forth below:
  - (1) Educational system impact fee components pertaining to construction and equipment costs shall be adjusted by the average percentage change from the previous two (2) fiscal years in the Consumer Price Index.
  - (2) Educational system impact fee components relating to land acquisition costs shall be adjusted by the percentage change for the previous fiscal year in the market value of land for real property owned by the school board as determined by written qualified opinions of estimated value of a representative sample of school board owned property. Such qualified opinions of estimated value shall be issued by an M.A.I appraiser using generally accepted appraisal techniques.
  - (3) Provided, however, that in the event the board, after consultation and input from the Superintendent, determines that the requested rate adjustment of the educational system impact fee will cause residential construction to pay more than its fair share of the costs of improvements and additions to the educational system that are necessary to accommodate the students generated by such growth, said rate adjustment will be decreased accordingly.
- (c) The adjusted rates set forth in the annual educational system rate resolution shall take effect on October 1 of the year in which the annual educational system rate resolution is adopted subject to the notice provisions set forth in section 24-47 herein.

Sec. 24-47. - Notice of educational system impact fee rates.

Upon adoption of the initial resolution establishing the educational system impact fee rates pursuant to section 24-39, a periodic rate adjustment resolution pursuant to 24-46, or any other amendment to the educational system impact fee rates, the impact fee coordinator shall publish a notice once in a newspaper of general circulation within the county which notice shall include: (i) a brief and general description of the educational system impact fee, (ii) a description of the geographic area in which the educational system impact fee will be collected, (iii) the educational system impact fee rate to be imposed for each category of the educational system impact fee, and (iv) the date of implementation of the educational system impact fee rates set forth in the notice, which date shall not be earlier than ninety (90) days after the date of publication of the notice. be at least ninety (90) days before the effective date of an ordinance or resolution imposing a new or increased impact fee.

Sec. 24-48. - Short term rental.

Any residential construction that qualifies as short term rental and meets the following requirements will be entitled to pay the reduced rate for a short term rental dwelling unit as calculated in the latest school impact fee update study:

- (a) Any person seeking the reduced short term rental rate shall file with the superintendent an application for short term rental prior to receiving a building permit for the proposed residential construction. The application for short term rental shall contain the following:
  - (1) Name and address of the owner(s);
  - (2) Legal description of the short term rental property;
  - (3) Evidence that the short term rental is to be or is being marketed for short-term stays. It is recommended that the services of a property management company are being offered by the owner;
  - (4) Evidence that the design of the development discourages permanent residency by the lack of availability of mail delivery, no county residential universal garbage pick-up, increased resort-style amenities, increased parking considerations, and noise buffering;
  - (5) A copy of the proposed declaration of covenants and restrictions that runs with the land and contains the following provisions, which cannot be revoked or amended for a period of thirty (30) years from recording without permission from the school board:

Restrictions stating that mailboxes or mail delivery shall not be available; garbage collection shall be provided by a commercial hauler and not part of the Osceola County residential garbage collection; a property or homeowner's association that oversees the increased amenities facilities; and language that sets out that the development is intended for non-permanent occupancy;

- (6) A letter of commitment filed with the developer's application certifying the residential construction identified within the developer's application will qualify as short term rental and meet the reduced rate requirements of the educational impact fee ordinance;
  - (7) ~~A filing fee of two thousand dollars (\$2,000.00).~~ The Filing Fee adopted is set forth in Resolution #21-302R. Such fees may be changed from time to time but shall not exceed the actual cost of the review fees to process the application.
  - (8) A recorded plat denoting the lot(s) to be identified as capable of being used for short term rental;
  - (9) A deed restriction that notifies the owners or prospective owners that the property is not eligible for homestead exemption if used as a short term rental; and
  - (10) A deed restriction providing that the articles of the deed restrictions relating to the school district may not be amended without the signed consent of the superintendent for the school district of Osceola County, Florida.
- (b) Upon written notification by the school board that a student under the age of eighteen (18) has been registered to attend school and is residing at a Short-Term Rental community, the property owner's association shall have sixty (60) calendar days from the date of the written notification in which to demonstrate to the school board that the subject student registration was in error or, alternatively, that the subject student no longer resides in the Short-Term Rental community, payment of the educational system impact fee shall be made by the property owner's association within ninety (90) calendar days from the date of the written notification.

If the requirements above are met, the superintendent shall issue a letter to the applicant and the jurisdiction that this development shall be charged the short term rental rate for each dwelling unit.

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### **Section 3. Declaration of Exclusion from Administrative Procedures Act.**

Nothing contained in this Ordinance 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 Ordinance, including specifically, but not limited to, a Developer Contribution Credit under Section 24-43 upon review hearing under Section 24-8, or any review of the imposition and amount of any impact fee imposed hereunder. It is declared that the School Board is the beneficiary of the funds generated from this Ordinance, but all issues involving the manner, means, and methods of collection of the Impact Fee and the amount thereof in any particular case shall be deemed to be action by the Board and not by the School Board. The School Board, whenever it is designated to sit in a decision making capacity under this Ordinance, including but not limited to decisions concerning the exemption from, or the amount of, an impact fee in a particular case, or the award and amount of credit in a particular case, shall be deemed to be acting in accordance with this County Ordinance, and therefore the review of any decision by the School Board in its capacity acting under this ordinance shall be excluded from the Administrative

Procedures Act and the review shall be limited to Petition for Writ of Certiorari in the Osceola County Circuit Court.

**Section 4. Severability.** It is declared to be the intent of the Board of County Commissioners that if any section, subsection, sentence, clause, phrase, 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 portions hereof.

**Section 5. Conflict.** Any ordinance or part thereof in conflict with this Ordinance or any part hereof is hereby repealed to the extent of the conflict.

**Section 6. Inclusion in the Code.** The provisions of this Ordinance shall be included and incorporated within the Code of Ordinances of Osceola County, Florida, and may be renumbered or relettered to accommodate such inclusion.

**Section 7. Effective Date.** This Ordinance shall be filed with the Department of State pursuant to law and become effective March 6, 2022.

**Section 8. Grace Period.** The impact fee imposed by this Ordinance shall be due and payable for all residential construction subject to this Ordinance which is constructed pursuant to any building permit issued on or after the effective date of this Ordinance.

**PASSED AND ADOPTED** by the Board of County Commissioners of Osceola County, at its duly noticed meeting this December 6<sup>th</sup>, 2021.

BOARD OF COUNTY COMMISSIONERS  
OF OSCEOLA COUNTY, FLORIDA  
(seal)

By: \_\_\_\_\_  
Chair/Vice Chair

\_\_\_\_\_  
Clerk of the Board

Ordinance 2021-85

