

**ORDINANCE # 2016-10**

**An Ordinance of the Board of County Commissioners of Osceola County, Florida; Amending Chapter 24, Article I, of the Osceola County Code of Ordinances relating to Impact Fees by amending Section 24-6 "Exemptions"; Amending Section 24-4 "Payment of Impact Fees"; Amending Section 24-8 "Review Hearings"; Amending Chapter 17, Article II, Division 5, of the Osceola County Code of Ordinances relating to Impact Fees - Parks and Recreational Facilities by amending Section 17-181 "Exemptions"; Amending Chapter 17, Article II, Division 4, of the Osceola County Code of Ordinances relating to Impact Fees - Fire Rescue by amending Section 17-141 "Exemptions"; Providing for Severability; Providing for Conflict; Providing for Inclusion in the Code; and Providing for an Effective Date.**

**WHEREAS**, Section 125.01, Florida Statutes, grants the Osceola County Board of County Commissioners, herein 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 which include the use of impact fees to implement the goals, objectives and policies of a county's comprehensive plan;

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF OSCEOLA COUNTY, FLORIDA:**

**SECTION 1. RECITALS.**

The foregoing recitals are true and correct and incorporated herein.

**SECTION 2. AMENDMENT TO SECTION 24-6.**

This ordinance amends Chapter 24, Article I, Section 24-6 of the Osceola County Code of Ordinances, entitled "Exemptions", subsections 24-6(3) and 24-6(4), as follows:

\* \* \* \*

- (3) The replacement of an existing dwelling unit for which the applicable impact fee has previously been paid for the lot upon which the replacement dwelling unit is to be situated, provided a certificate of occupancy is issued for the replacement dwelling unit ~~within seven years of the date the previous dwelling unit was previously occupied,~~ and provided the replacement does not increase the number of families for which the

(underscore indicates addition; ~~strikethrough~~ indicates deletions)

previous dwelling unit was originally arranged, designed or intended to accommodate for the purpose of providing living quarters. In the event of a replacement of the primary building, the existing and replacement structures must be located on the same lot.

- (4) The issuance of a tie-down permit for a mobile home on which the applicable impact fee has previously been paid for the lot upon which the mobile home is to be situated, ~~Provided a certificate of occupancy is issued for the replacement mobile home within seven years of the date the previous mobile home was previously occupied.~~

\* \* \* \*

### SECTION 3. AMENDMENT TO SECTION 24-4.

This Ordinance amends Chapter 24, Article I, Section 24-4 of the Osceola County Code of Ordinances, entitled "Payment of Impact Fees", subsections 24-4(b), 24-4(b)(5), 24-4(b)(6), as follows:

\* \* \* \*

- (b) For the educational system impact fee, prior to the issuance of a certificate of occupancy ~~for a building permit~~ for residential construction, an applicant shall pay the educational system impact fee as provided in section 24-39, as follows:
- (b)(5) In the event the educational system impact fee is not paid prior to the issuance of a ~~building permit for the affected residential construction, the educational system impact fee shall be collected prior to the issuance of certificate of occupancy or~~ certificate of occupancy, then the County or City may elect to collect the Educational System Impact Fee by any other method which is authorized by law, unless, otherwise exempted pursuant to this chapter. The county or the city collecting the educational system impact fee shall forward notice of such delinquency to the school board upon discovery of any such delinquency.
- (b)(6) In the event that the educational system impact fee is paid prior to the issuance of a certificate of occupancy ~~for a building permit~~ for a residential construction and that said building permit expires prior to completion of the residential construction for which it was issued, the applicant may, within ninety (90) days of the expiration of the building permit, apply for a refund of the educational system impact fee. Failure to timely apply for a refund of the educational system impact fee shall waive any right to a refund.

\* \* \* \*

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**SECTION 4. AMENDMENT TO SECTION 24-8.**

This Ordinance amends Chapter 24, Article I, Section 24-8 of the Osceola County Code of Ordinances, entitled "Review Hearings", subsections 24-8(g) and 24-8(h), as follows:

\* \* \* \*

- (g) Any applicant or owner who requests a hearing pursuant to this section and desires the immediate issuance of a certificate of occupancy ~~(or a building permit if the matter under review concerns the educational system impact fee)~~, or if a certificate of occupancy (or a building permit if the matter under review concerns the educational system impact fee) has been issued without the payment of the impact fees, shall pay prior to or at the time the request for hearing is filed the applicable impact fees pursuant to this chapter. Said payment shall be deemed paid under "protest" and shall not be construed as a waiver of any review rights.
- (h) An applicant or owner may request a hearing under this section without paying the applicable impact fees but no certificate of occupancy ~~(or a building permit if the matter under review concerns the educational system impact fee)~~ shall be issued until such impact fees are paid in the amount initially calculated or the amount approved upon completion of the review provided in this section.

**SECTION 5. AMENDMENT TO SECTION 17-181.**

This ordinance amends Chapter 17, Article II, Division 5, Section 17-181 of the Osceola County Code of Ordinances, entitled "Exemptions", subsections 17-181(c) and 17-181(d), as follows:

\* \* \* \*

- (c) The replacement of a dwelling unit where no additional dwelling units are created and where the existing and replacement dwelling units are located on the same lot. ~~Such replacement must occur within seven (7) years of the date the previous dwelling unit was previously occupied, otherwise no exemption shall be granted; provided however, that the time during which such replacement must occur shall be extended for a period equal to the duration of any moratorium on the collection of park impact fees.~~
- (d) The issuance of a tie-down permit on a mobile home on which applicable park impact fee has previously been paid for the lot upon which the mobile home is to be situated. ~~A certificate of occupancy must be issued for the replacement mobile home within seven (7) years of the date the previous mobile home was previously occupied; provided however, that the time during which such certificate of occupancy must be issued shall be extended for a period equal to the duration of any moratorium on the collection of park impact fees.~~

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\* \* \* \*

**SECTION 6. AMENDMENT TO SECTION 17-141.**

This Ordinance amends Chapter 17, Article II, Division 4, Section 17-141 of the Osceola County Code of Ordinances, entitled "Exemptions", subsections 17-141(3) and 17-141(4), as follows:

\* \* \* \*

- (3) The replacement of a building or dwelling unit where no additional dwelling units or square footage are created and where the existing and replacement buildings and dwelling units are located on the same lot. ~~A certificate of occupancy must have been issued within seven (7) years of the date the previous building or dwelling unit was previously occupied, otherwise no exemption shall be granted; provided however, that the time during which such certificate of occupancy must be issued shall be extended for a period equal to the duration of any moratorium on the collection of fire rescue impact fees.~~
- (4) The issuance of a tie-down permit on a mobile home on which applicable fire rescue impact fee has previously been paid for the lot upon which the mobile home is to be situated. ~~A certificate of occupancy must be issued for the replacement mobile home within seven (7) years of the date the previous mobile home was previously occupied, otherwise no exemption shall be granted; provided however, that the time during which such certificate of occupancy must be issued shall be extended for a period equal to the duration of any moratorium on the collection of fire rescue impact fees.~~

\* \* \* \*

**SECTION 7. SEVERABILITY.**

If any provision of this Ordinance, or the application thereof, is for any reason held or declared to be unconstitutional, inoperative, void or invalid, such holding shall not affect provisions or applications of this Ordinance which can be given affect without the invalid provisions or application, and to that end, the provisions of this Ordinance are declared severable.

**SECTION 8. CONFLICT.**

Any ordinance or part thereof, and/or any resolution, or part thereof, which is in conflict with this Ordinance or part thereof is hereby repealed to the extent of the conflict.

**SECTION 9. 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.

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**SECTION 10. EFFECTIVE DATE.**

The Clerk shall file a certified copy of this Ordinance with the Department of State within ten days of its adoption. This Ordinance shall take effect immediately upon its filing with the Department of State.



BOARD OF COUNTY COMMISSIONERS  
OF OSCEOLA COUNTY, FLORIDA

By: *Tamara Jones*  
Chairwoman/Vice Chairwoman

ATTEST:

OSCEOLA COUNTY CLERK OF THE BOARD

By: *Deborah P. Whaley*  
Clerk/Deputy Clerk of the Board

As authorized for execution at the Board of County  
Commissioners meeting of:

*February 01, 2016*  
*Ordinance #2016-10*



**FLORIDA DEPARTMENT of STATE**

**RICK SCOTT**  
Governor

**KEN DETZNER**  
Secretary of State

February 2, 2016

Ms. Paula J. Carpenter  
Clerk of the Board  
Osceola County  
1 Courthouse Square, Suite 4400  
Kissimmee, Florida 34741

Attention: Ms. Delores Whaley

Dear Ms. Carpenter:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Osceola County Ordinance No. 2016-10, which was filed in this office on February 2, 2016.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb