

## ORDINANCE NO. 15-14

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MARION COUNTY, FLORIDA AMENDING ARTICLE XI OF CHAPTER 10 OF THE MARION COUNTY CODE OF ORDINANCES, UPDATING STATUTORY AND CODE CROSS-REFERENCES; UPDATING IMPACT FEES AND DISTRICTS FOR TRANSPORTATION FACILITIES; REPEALING IMPACT FEES FOR FIRE-RESCUE FACILITIES; UPDATING ANNUAL REPORTING; AND PROVIDING FOR SEVERABILITY, REPEAL, INCLUSION IN CODE, AND AN EFFECTIVE DATE.

**WHEREAS**, the Board of County Commissioners retained the firm of Tindale-Oliver & Associates, Inc. to study the need to update the county's existing impact fees for transportation facilities, and to establish the proportionate share of new development's demand for capital improvements for roads on the county's major road network system; and

**WHEREAS**, Tindale-Oliver & Associates, Inc. has prepared and presented to the Board of County Commissioners a report titled, "Marion County Transportation Impact Fee Update Study," dated June 12, 2015 (the technical study); and

**WHEREAS**, the technical study establishes the proportionate share costs of new developments' impacts on capital improvements for roads on the county's major road network system and a system for imposing said fees, including revised collection and expenditure districts, in compliance with Florida case law and legislation; and

**WHEREAS**, in 2014, the Board of County Commissioners adopted an Economic Element in the Marion County Comprehensive Plan, which provides, among other things, that the County "will strive to sustain and enhance the economic health of the community through its role as a catalyst and coordinator of economic development activities that increase and diversify the economic base, create higher paying job opportunities, support the continuation, expansion, and retention of current business and industry, encourage the relocation of business and industry to and within Marion County, and provide a positive business environment which will allow the residents of Marion County to prosper;" and

**WHEREAS**, the Board hereby finds that the transportation impact fees and procedures adopted by this Ordinance will advance the County's economic growth strategies, including those set forth in Goal 1 of the Economic Element of the Comprehensive Plan, while simultaneously maintaining adopted transportation levels of service standards; and

**WHEREAS**, the Board has evaluated its future needs for fire and rescue facilities and identified impact fee and other funding mechanisms to address those needs, based on County level of service standards; and

**WHEREAS**, based on its evaluations and identified funding sources, the Board hereby repeals impact fees for fire and rescue facilities; and

**WHEREAS**, pursuant to § 163.31801, Fla. Stat.:

- (a) the technical study, and the impact fees recommended therein, are based on the most recent and localized data;
- (b) this Ordinance includes procedures for accounting and reporting of impact fee collections and expenditures in order to assure compliance with applicable legal standards;
- (c) this Ordinance includes separate accounting funds for each public facility for which an impact fee is collected;
- (d) administrative fees charged pursuant to this Ordinance for the collection of impact fees are limited to actual costs;
- (e) the County, pursuant to section 10-284, shall provide notice at least ninety (90) days prior to the effective date of this Ordinance; and

- (f) this Ordinance requires audits of the County's financial statements to include an affidavit of the County's chief financial officer stating that the requirements of § 163.31801, Fla. Stat. have been complied with; and

**WHEREAS**, the impact fees assessed pursuant to this Ordinance are necessary to ensure the public health, safety, and welfare of the residents of Marion County.

**NOW, THEREFORE, BE IT ORDAINED BY** the Board of County Commissioners of Marion County, Florida:

**SECTION 1.** That Article XI of the Marion County Code of Ordinances is hereby **repealed** and replaced as provided herein.

**SECTION 2.** That Article XI of the Marion County Code of Ordinances is hereby **adopted** as follows.

## **ARTICLE XI. - IMPACT FEE FOR TRANSPORTATION FACILITIES**

### **DIVISION 1. - GENERALLY**

#### **Sec. 10-271. - Short title, authority and applicability.**

- (a) This article shall be known and may be cited as the "Marion County Impact Fee Ordinance for Transportation Facilities."
- (b) The Board of County Commissioners of Marion County (hereafter the "board") has the authority to adopt this article pursuant to Article VIII of the Florida Constitution and Chapters 125 and 163, Florida Statutes.
- (c) Chapter 336, Florida Statutes, invests the board with general superintendence and control of all county roads and structures within Marion County including all collector roads in the unincorporated areas of Marion County and all extensions of such collector roads into and through any incorporated areas, all local roads in the unincorporated areas and all urban minor arterial roads not in the state highway system.

#### **Sec. 10-272. - Intent and purpose.**

- (a) This article is intended to implement and be consistent with the Marion County Comprehensive Plan to assess new development a pro rata share of the costs required to finance transportation improvements necessitated by new development.
- (b) The purpose of this article is to require the impact generating land development activity within the county to provide for capital improvements and additions to the major road network system which are necessitated by impact generating land development activity through the payment of impact fees. This article shall not be construed to permit the collection of impact fees from impact generating land development activity in excess of the amount reasonably anticipated to offset the cost to facilitate the demand of the impact generating land development activity.
- (c) This article is intended to be consistent with the principles for allocating a fair share of the cost of new public facilities to new users. This article is intended to require development to contribute its proportionate share of the funds, land, or public facilities necessary to accommodate any impacts having a rational nexus to the proposed development and for which the need is reasonably attributable to the proposed development.

#### **Sec. 10-273. - Definitions.**

Adequate security means cash, a cashiers check, a letter of credit, property, or any other thing of value reasonably acceptable to the county.

Apartment means a structure that includes more than one dwelling unit. For impact fee determining purposes, duplex, triplex and quadplex shall be categorized as "Apartment Residential 1-2 stories (per dwelling unit)."

Arterial road means a road providing service which is relatively continuous and of relatively high traffic volume, long average trip length, high operating speed, and high mobility importance. In addition, every United States numbered highway is an arterial road.

Building area means the area included within surrounding exterior walls, or exterior walls and fire walls, exclusive of courts. The area of a building or portion of a building without surrounding walls shall be the usable area under the horizontal projection of the roof or floor above.

Building permit means that development permit required before the construction of a structure.

Capital improvement means any project eligible for inclusion as a road project in the major road network system, including expenditures for transportation planning, right-of-way acquisition, engineering, and construction, and facility planning, land acquisition, site improvements, and necessary off-site improvements. The term does not include routine or periodic maintenance as those terms are defined in subsections 334.03(18) or (23), Florida Statutes (2015). This term also does not include routine resurfacing.

Collector road means a road providing service which is of average traffic volume, trip length, and operating speed. Such a road also collects and distributes traffic between local roads or arterial roads and serves as a linkage between land access and mobility needs.

Development order means an order granting a comprehensive plan amendment changing the land use of property or an order granting or granting with conditions an application for a development permit as defined in subsection 163.3164(16), Florida Statutes.

Developer contribution means a feepayer's conveyance of right-of-way or drainage retention areas for, or contribution toward or construction of, off-site road improvements to the major road network system.

Existing land development activity means the most intense use of land since January 1, 1990. In the case of a building that has been vacant since January 1, 1990, the last documented use of the building shall be used. In the case of the Ocala Redevelopment Area, as defined by resolution 88-52 of the City of Ocala Council, the most intensive use of the land since 1965 shall be used. The board may, by resolution, adopt a different period of time for county and municipal community redevelopment areas.

Feepayer shall mean a person who is commencing land development activity covered by this article.

Floor area shall mean the sum of the gross floor area for each of a building's stories, measured from the exterior faces of the structure.

Generation of traffic shall mean the production or attraction of traffic.

Impact generating land development activity means land development activity designed or intended to permit a use of the land which will increase the generation of vehicle-miles of travel for such land development activity.

Land means the earth, water, and air above, below, or on the surface, and includes any improvements or structures customarily regarded as land.

Land development activity is any activity which requires the issuance of a building permit.

Major road network system means all principal and minor arterial roads and major and minor collector roads within Marion County, including proposed arterial and collector roads of this type. The major road network system shall also include new roads approved by the board by resolution and those proposed section line roads, required to be dedicated and/or constructed as part of new final development orders, which the county determines to meet collector or arterial road definition. The major road network system shall also include arterial and collector roads shown on the Marion County Comprehensive Plan Future Traffic Circulation Functional Classification Map, or listed in the transportation planning organization's (TPO's) long range transportation plan (LRTP) or the county transportation improvement plan (TIP) or municipal capital improvement plans (CIP) or capital improvement elements.

A mobile home is a structure transportable in one or more sections which is eight (8) feet or more in width and which is built upon an integral chassis and designed to be used as a dwelling unit when connected to the required utilities.

A multifamily residence is a building or portion thereof, used for residential purposes, and which contains two (2) or more separate dwelling units.

Off-site road improvement means a road improvement, which meets the definition of a capital improvement, located outside the boundaries of the parcel proposed for development, which is required in order to serve the development's external trips on the major road network system. Off-site road improvements do not include access improvements.

Person means individual, corporation, governmental agency, business trust, estate, trust, partnership, association, two (2) or more persons having a joint or common interest, or any other entity.

Right-of-way means land in which the state, the department of transportation, a county, or a municipality owns the fee or has an easement devoted to or required for use as a transportation facility.

Road shall include highways, streets, sidewalks, bike lanes or paths, alleys, multi-modal facilities associated with road capacity only, and other ways open to travel by the public, including the roadbed, right-of-way, and all culverts, drains, sluices, ditches, water storage areas, drainage retention areas, waterways, embankments, slopes, retaining walls, and bridges necessary for the maintenance of travel.

Road construction district shall have the meaning ascribed to it in section 10-325 of this article.

Road necessary to provide direct access to the development shall mean road improvements and right-of-way dedications for any road or intersection improvement that is not part of the major road network system, and whose function at the time of its construction is primarily to allow access to the development.

A single-family residence is a detached dwelling unit used for single family residential purposes.

Site-related road improvements are road improvements and right-of-way dedications which do not meet the same needs as the impact fee and which are (a) internal, on-site land or facilities required by local regulations, or (b) off-site improvements necessary to provide safe and adequate services to the development. Site-related improvements include, but are not limited to, the following: (1) site driveways and roads; (2) right and left turn lanes leading to those driveways; (3) traffic control measures for those driveways; (4) frontage roads; and (5) road necessary to provide direct access to the development.

Technical study is the periodic methodological study prepared by a qualified consultant in order to determine the amount of impact fees imposed by this article.

#### **Sec. 10-274. - Rules of construction.**

- (a) For the purposes of administration and enforcement of this article, unless otherwise stated in this article, the following rules of construction shall apply to the text of this article.
  - (1) In case of any difference of meaning or implication between the text of this article and any caption, illustration, summary table, or illustrative table, the text shall control.
  - (2) The word "shall" is always mandatory and not discretionary; the word "may" is permissive.
  - (3) 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.
- (b) Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and," or "or," 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.
- (c) The word "includes" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.
- (d) Where a road right-of-way is used to define road construction district boundaries, it may be considered as part of any district it bounds.

**Sec. 10-275. - Who must pay impact fees.**

- (a) Any person who, after the effective date of this article, shall commence any new impact generating land development activity, shall be required to pay impact fees in the manner and amount set forth in this article.
- (b) In the case of a change of use, redevelopment, or modification of an existing use which requires the issuance of a building permit, the impact fee shall be based upon the net increase in the impact fee for the new use as compared to the existing land development activity. If a subsequent change in the nature of an existing land development activity, or a replacement of the existing land development activity to be permitted generates additional traffic, then the new land development activity shall pay impact fees only to the extent of the net increase in the impact of the new development activity. The amount of the impact fee that is due as a result of the change in land use shall be paid prior to the issuance of a certificate of occupancy for construction or remodeling. If the change of land use does not require the issuance of a building permit or site plan approval, then there shall be no requirement to pay an impact fee. The planning division shall calculate the impact fee due to a change in use. Under no circumstances will a refund of the impact fee be granted for change of use. Where portable buildings utilized for education have paid an impact fee at one site and such buildings are relocated to another site, no additional impact fees will be required for such relocation.
- (c) Any land development activity, for which a complete application for a building permit has been submitted prior to the effective date of any impact fee increase, may pay impact fees for that land development activity at the rate in effect at the time a complete application for a building permit has been submitted, provided however, this provision shall apply only as long as such building permit remains valid.
- (d) Notwithstanding any provision to the contrary, any modification to an existing use which does not exceed five hundred (500) square feet, and the addition of a room to a residential structure which does not create an additional dwelling unit, shall be deemed de minimis impacts and no impact fee shall be due for such modifications. Except for residential additions, which do not create an additional dwelling unit, de minimis impact modifications shall be limited to one per calendar year per parcel. The addition of a dwelling unit greater than 1000 s.f.g.l.a. in size, to a parcel already occupied by a single-family residence, when not attached to such single-family residence by a habitable space, shall be considered as an additional dwelling unit subject to payment of a separate impact fee.
- (e) Reserved.
- (f) Education facilities. The board hereby finds that providing incentives for the creation of private educational facilities reduces the burden on public educational facilities, benefits the community as a whole and constitutes a valid public purpose. The board further finds that private educational facilities may provide fiscal benefits to the county in excess of the cost of the project's impact to the county's major road network. The board further finds that by operation of state law public educational facilities are exempt from the payment of impact fees. Therefore, the board may, in its sole discretion, grant a partial or total rebate of all impact fees actually paid in cash on account of an impact generating land development activity when the original occupant of such development activity was a private educational facility from kindergarten through high school, upon letter application from the fee payer. To be considered for such rebate, an application for rebate must be filed with the County Administrator within seven (7) years of the date of payment of such fees, and the improvements must still be in use as a private educational facility as of the date of the application. Payment of any rebates made to the applicant shall be made from the county's general fund.

**Sec. 10-276. - Payment of fees.**

- (a) No temporary or permanent certification of occupancy or clearance for establishing permanent electrical power service shall be issued until any applicable impact fee has been paid to the county administrator or his designee. All impact fees paid shall remain and run with the land and the obligation of the payment shall be upon the landowner. The county administrator may approve an agreement for twelve (12) equal monthly payments of the impact fee for applicants who meet the Marion County

S.H.I.P Program guidelines for low income families. A forty dollar (\$40.00) nonrefundable process fee will be charged for all applications for a deferred payment agreement.

**Sec. 10-277. - Rebate of fees paid.**

- (a) Any funds not expended by the end of the calendar quarter immediately following seven (7) years from the date on which the impact fee was paid may be returned to the feepayer with interest at the rate earned in the impact fee ordinance trust fund.
- (b) The board may, by resolution, extend for up to three (3) years the date at which the funds may be rebated. Such an extension shall be made upon a finding that within the three-year period, improvements are scheduled to be constructed that are reasonably attributable to the feepayer's land development activity and that the fees for which the time of rebate is extended shall be spent for those capital improvements.
- (c) For purposes of computation of time and expenditure of collected fees, the first fees collected shall be deemed the first fees spent. For purposes of this section, funds shall be considered expended when contracts(s) have been awarded by the county committing the funds or when the funds have actually been spent, whichever is earlier. Rebates shall be made only in accordance with the following procedures:
  - (1) To qualify for a rebate, the feepayer or his successor in interest must submit a petition for a rebate within one hundred eighty (180) days of the time identified in subsection (a) above.
  - (2) The petition for rebate shall be submitted to the county administrator or his designee 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 bill.
  - (3) The county administrator or his designee shall review the rebate application within thirty (30) days from the date of its receipt and determine whether an impact fee rebate is appropriate. If rebate is determined not to be appropriate, the applicant will be notified in writing.
  - (4) Any impact fee collected shall be rebated to the feepayer or his successor in interest if the fees have not been spent or encumbered prior to the time identified in subsection 10-277(a) above. Impact fees collected shall be deemed to be spent or encumbered on the basis that the first fee collected shall be the first fee spent.
  - (5) Any application submitted after the one hundred and eighty-day period provided in subsection 10-277(c) shall not be accepted and the applicant shall have no further right to a rebate of impact fees. The impact fee rebate shall be made to the applicant within sixty (60) days of such determination of appropriateness as indicated in section 10-277(c)(3).

**Sec. 10-278. - Independent impact analysis.**

- (a) At the option of the feepayer, the impact fee may be computed by the use of an independent impact analysis. The person who prepares the independent impact analysis shall be approved by the county administrator or his designee on the basis of professional training and experience in the preparation of impact analyses. The feepayer shall be responsible for preparation of a complete independent impact analysis, and the county administrator or his designee shall submit a recommendation to the board to accept, reject or modify that analysis. The decision of the board may be appealed to the circuit court within thirty (30) days of the decision.
- (b) If the impact fee is computed by an independent impact analysis, the analysis must be consistent with the following:

- (1) The independent impact analysis shall be based on data, information, assumptions, and the methodology defined in the independent impact analysis guidelines provided in the Marion County Impact Fee Administrative Procedures Manual. The independent impact analysis shall study all demand component variables utilized in the formula and shall not be acceptable if less than all demand components are studied. The independent impact analysis shall utilize the cost and audit components set forth in the most current technical study referenced herein.
  - (2) If the independent impact analysis is prepared in connection with a contribution agreement by which terms the fee will be paid at the time of discretionary action by the board, the statement shall be submitted by the county administrator or his designee to the board for its review and at the same time it considers the action to be taken.
  - (3) If the independent impact analysis covers a development located within a municipality, the county shall make a copy of the analysis available for municipal review and comment.
- (c) A processing and review fee of five hundred dollars (\$500.00) shall be submitted with the independent impact analysis. County staff processing and reviewing the analysis shall keep records of the time and cost of such review and if the total cost of processing and review is less than five hundred dollars (\$500.00), a rebate of the difference shall be provided to the applicant.

**Sec. 10-279. - Local studies; five-year updates.**

The county administrator or his designee shall periodically perform studies, as directed by the board, to determine whether the data utilized to establish the impact fees stated herein are consistent with local experience. At least every five (5) years, the county administrator shall inform the board regarding the progress of and results obtained in such studies, and may make recommendations regarding changes to the impact fees. The county administrator may recommend to the board the performance of studies within such five-year period consistent with local experience, as necessary.

**Sec. 10-280. - Review hearings before a hearing officer.**

- (a) An applicant or owner who is required to pay an impact fee shall have the right to request a review hearing before a hearing officer.
- (b) Such a hearing shall be limited to the review of the following:
  - (1) The application or calculation of the appropriate impact fee pursuant to section 10-322.
  - (2) The application or calculation of the appropriate rebate of impact fee pursuant to section 10-277.
  - (3) The refusal or valuation of developer impact fee credit for dedication of land or construction of improvements.
  - (4) The county administrator's rejection of an independent impact analysis.
  - (5) A claim that the new fee schedule constitutes an unlawful impairment of an existing construction or development contract.
- (c) Except as otherwise provided in this article, such hearing shall be requested by the applicant or owner within thirty (30) calendar days, including Sundays and legal holidays, of the date of:
  - (1) Receipt of the notice of impact fee statement,
  - (2) The notification of a decision on the allowance or amount of credit for conveyance of land or construction of improvements is received.
  - (3) Receipt of a determination of a rebate application.

Failure to request a hearing within the time provided shall constitute a waiver of review rights.

- (d) The request for hearing shall be filed according to the procedures identified in section 1.7.5, Appeals to the Hearing Officer of the Marion County Land Development Code and shall contain at a minimum:
  - (1) The name and address of the applicant or owner;

- (2) The legal description of the property in question;
  - (3) A summary of the facts relied upon by the applicant as the basis of the appeal.
- (e) Appeal of the hearing officer's decision is available to the property owner and the county and shall be by common law certiorari to the circuit court subject to the Florida Rules of Appellate Procedure and shall be filed within the timeframe identified in section 1.7.5 of the Marion County Land Development Code.
  - (f) No applicant shall be deemed to have exhausted his or her administrative remedies for the purpose of seeking judicial review, unless the party first obtains a review by the hearing officer as provided herein.
  - (g) The application fee for appeals to the hearing officer shall be eight hundred dollars (\$800.00), and shall be paid when the applicant files his request to a review hearing with the zoning director. If the total fees paid to the hearing officer for issuance of the hearing officer's final order on review is less than eight hundred dollars (\$800.00), the county will provide a rebate of the excess application fee to the applicant.

**Sec. 10-281. - Liberal construction, severability and penalty provisions.**

- (a) The provisions of this article shall be liberally construed to effectively carry out its purpose in the interest of public health, safety, welfare and convenience.
- (b) If any section, phrase, sentence or portion of this article 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 thereof.

**Sec. 10-282. - Indexing.**

The board hereby adopts the "Marion County Transportation Impact Fee Update Study," dated June 12, 2015, prepared by Tindale-Oliver & Associates, Inc., and the indexing methodology of such fees utilizing annual cost increases for construction, land, and property valuation increases.

**Sec. 10-283. - Annual indexing procedure.**

- (a) The board may adopt an annual transportation impact fee index ordinance (index ordinance) at least ninety (90) days prior to October 1 of each year, unless a full review of the impact fee amounts set forth in section 10-327 and the impact fee study are completed pursuant to section 10-279 herein before October 1 of such year. Such ordinance shall be subject to the notice requirements of section 10-284 herein.
- (b) The index ordinance shall set forth adjusted impact fee rates for land use categories reflecting the rates contained in the indexed schedule or changes in the cost of impact fee components for the upcoming year.
- (c) Provided, however, that the cost increases described by the indexing methodology in the impact fee study may be reduced or eliminated at the board's discretion.
- (d) The adjusted rates set forth in the index ordinance shall take effect on January 1 of the year following the year in which the index ordinance is adopted subject to the notice provisions set forth in section 10-284 herein.

**Sec. 10-284. - Notice of impact fee rates.**

Upon adoption of this article or any amendment hereto imposing revised impact fee rates or revising the land use categories for any impact fee, the county administrator shall publish a notice once in a newspaper of general circulation within the county which notice shall include:

- (1) A brief and general description of the affected impact fee;
- (2) A description of the geographic area in which the impact fee will be collected;
- (3) Impact fee rates to be imposed for each land use category for the applicable impact fee; and



- (4) The date of implementation of the 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.

**Sec. 10-285. - Reports and affidavits.**

The county administrator, or designee, shall prepare an annual report to the board reflecting the collection and expenditure of transportation impact fees during the previous fiscal year. The chief financial officer of the county shall prepare and sign an affidavit stating the county has complied with the Florida Impact Fee Act, F.S. § 163.31801, during the previous fiscal year. The annual report of the county administrator, or designee, will include, if necessary, any recommendations needed to ensure that the County's impact fee program remains in compliance with the provisions of this ordinance, the Florida Impact Fee Act, F.S. § 163.31801, and applicable case law. Audits submitted to the Auditor General, pursuant to F.S. § 218.39, shall include the affidavits prepared pursuant to this section.

**Secs. 10-286—10-320. - Reserved.**

**DIVISION 2. - TRANSPORTATION IMPACT FEES**

**Sec. 10-321. - Findings.**

It is hereby ascertained, determined and declared:

- (1) Both existing development and development necessitated by the growth contemplated in the comprehensive plan will require improvements and additions to the major road network system to accommodate and maintain traffic at the level of service adopted by municipalities and the county.
- (2) Future growth, as represented by impact generating land development activity, should contribute to the cost of improvements and additions to the major road network system required to accommodate traffic generated by such growth as contemplated in the comprehensive plan.
- (3) The required improvements and additions to the major road network system needed to accommodate existing traffic at the level of service adopted by municipalities and the county shall be financed by revenue sources of municipalities and the county other than transportation impact fees.
- (4) Implementation of a transportation impact fee structure, to require future impact generating land development activity to contribute the cost of required transportation capital improvements and additions, is an integral and vital element of the regulatory plan of growth management incorporated in the comprehensive plan of the county.
- (5) The board expressly finds that improvements and additions to the major road network system provide a benefit to all impact generating land development activity within the county in excess of the transportation impact fee and the collection of transportation impact fees is the major source of funding for the county five (5) year transportation improvement program.
- (6) In recognition that transportation planning is an evolving process, it is the intent of the board that needed improvements to the major road network system be identified and evaluated periodically to insure transportation impact fee revenues are allocated to provide benefits to new development as required by law. By periodically reevaluating transportation impact fees and planned road improvements, the County can insure fees are imposed equitably and lawfully and are utilized effectively based upon actual and anticipated growth needs at the time of their imposition. Therefore, the cost of reviewing, updating, and adjusting this division is necessary to insure that transportation impact fees are imposed and administered in accordance with applicable law.
- (7) The county has a responsibility to provide and maintain all roads on the county road system in Marion County in both the unincorporated areas as well as the incorporated areas. New impact generating land development activity occurring within incorporated areas has impacts upon the county road system and state highway system within Marion County. Placing a fair share of the burden of the cost of providing the improvements and additions to the major road network system required by impact generating land development activity within incorporated areas constitutes a county purpose. In recognition of these findings, it is the intent of the board to impose the

transportation impact fee on all impact generating land development activity occurring within the county, including areas within municipal boundaries.

- (8) The technical study entitled "Marion County Transportation Impact Fee Update Study" dated June 15, 2015, prepared by Tindale-Oliver and Associates, sets forth a reasonable methodology and analysis for the determination of the impact of new development on the needs for and costs of additional transportation capital facilities in Marion County.

**Sec. 10-322. - Computation of amount of fees.**

- (a) At the time a complete application for a building permit is submitted for the construction of an impact generating land development activity, the county will determine the amount of impact fees to be paid. The impact fee shall be in the amounts set forth in section 10-327.
- (b) If the land development activity includes fractional units, the fee shall be computed to the appropriate fraction. In the case of a change of use, redevelopment or modification of an existing use which requires the issuance of a building permit, the impact fee shall be based on the net increase in the impact fee for the new use as compared to the existing land development activity.
- (c) If the land development activity being commenced cannot be classified into a development type identified in section 10-327, the feepayer may, at his option, use:
  - (1) The current edition of the Institute of Transportation Engineers (ITE) manual entitled Trip Generation and the methodology used in the impact fee study, to determine the trip generation component of the transportation impact fee;
  - (2) Or the feepayer may at his option determine the amount of impact fees by use of an independent impact analysis pursuant to section 10-278 of this article.
- (d) Any person undertaking a land development activity subject to impact fee payment who is in doubt as to the type or amount of any impact fees due may request, in writing, a nonbinding statement of impact fees due for the land development activity from the county administrator or his designee, who shall expeditiously respond, in writing, to the request. The administrator may require sufficient drawings or plans related to the proposed development to permit his written answer.

**Sec. 10-323. - Developer contributions/credits.**

- (a) A credit shall be granted against the transportation impact fee imposed in section 10-322 pursuant to a written impact fee credit agreement that has been approved by the board for certain conveyance of right-of-way, including any required water retention areas, or for the contribution toward or construction of off-site road improvements to the major road network system required to be made pursuant to a development order by the county, a municipal development order that is the subject of a written impact fee credit agreement approved by the board for credit, or pursuant to an impact fee credit agreement made in connection with impact generating land development activity. Such conveyances or improvements shall be subject to the following standards:
  - (1) The conveyance of right-of-way shall be an integral part of the major road network system; which are scheduled for right of way acquisition in the five (5) year county transportation improvement plan (TIP) or any municipal five (5) year CIP. The board may, by super majority vote, allow impact fee credits for conveyance of right-of-way for projects anticipated for acquisition beyond the five (5) year county TIP or beyond the first five (5) years of any municipal CIP.
  - (2) The off-site road improvements to be constructed shall be an integral part of the major road network system which are scheduled for construction in the five (5) year county TIP or any municipal CIP, and shall exclude site-related road improvements. The board may, by super majority vote, allow for impact fee credits for construction of off-site road improvements for projects anticipated for construction beyond the five (5) year county TIP or beyond the first five (5) years of any municipal CIP.
  - (3) Conveyance of right-of-way and off-site road improvements on principal and minor arterial or major or minor collector roads identified in the TPO long range transportation plan may be approved for a credit agreement by a supermajority vote of the board.

- (4) All conveyance of right-of-way or off-site road improvements, together with appurtenant right-of-way or easements required by the county, shall be conveyed to the county pursuant to ordinances, resolutions or regulations then in effect and in a form acceptable to the county attorney provided however, this requirement may be waived by the board where conveyance is to any municipality or the state.
  - (5) If the development order requires the developer to contribute land or a public facility or construct, expand, or pay for land acquisition or construction or expansion of a public facility, or portion thereof, which complies with the requirements of subsections 10-323(a)(1) through (3), and the developer is also subject to impact fees or exactions to meet the same needs, the developer may enter into an impact fee credit agreement with the county that credits a development order exaction or fee toward an impact fee or exaction for the same need. For purposes of this section, the contribution or construction will meet the same needs if the improvement complies with the requirements of subsection 10-323 (3). The nongovernmental developer need not be required, by virtue of this credit, to competitively bid or negotiate any part of the construction or design of the facility, unless otherwise required by the county, or unless the estimated cost of construction exceeds two million dollars (\$2,000,000.00), in which case the project shall be competitively bid unless waived by the board.
  - (6) Any credit granted for conveyance of right-of-way, or contribution, or construction shall be valued in accordance with subsection 10-323(c).
  - (7) Any developer seeking a credit against impact fees for development within any municipality shall contact the county impact fee coordinator immediately and the county shall review all traffic studies and participate with the city during negotiation of the development order to be submitted to the board for approval.
- (b) A feepayer who desires to contribute land or construct an off-site road improvement in lieu of payment, or in partial payment, of the impact fee shall, prior to issuance of a building permit, submit to the county administrator or his designee a proposed plan for the contribution of the land or for the construction of the off-site road improvement to the major road network system. The county administrator or his designee shall review the proposed plan to determine if it meets the requirements of section 10-323. If the proposed plan does not meet the requirements for credit, the county administrator or his designee shall notify the applicant in writing. Upon such notice, the applicant may amend the application to meet the requirements for credit and, if applicable, may request the board to add all or a portion of the proposed off-site road improvements to the county transportation improvement plan during its yearly update. If the amended proposed plan meets the requirements for credit, the county administrator or his designee shall resubmit the proposed plan to the board. In the case of a credit requiring a supermajority vote, the county administrator or his designee shall also submit the proposed plan to the board. The proposed plan of construction, dedication or contribution shall include:
- (1) A designation and legal description of the impact generating land development activity for which the plan is being submitted;
  - (2) A list of the contemplated off-site road improvements;
  - (3) A legal description and a written appraisal prepared in conformity with subsection 10-323(c)(1) of this section of any land proposed to be dedicated or conveyed.
  - (4) An estimate of proposed construction costs certified by a registered professional engineer; and
  - (5) A proposed time schedule for completion of the proposed plan of construction, dedication or conveyance.
- (c) Upon submission of a complete plan, the county administrator or his designee shall schedule a presentation before the board at a regularly scheduled meeting or a special meeting called for the purpose of reviewing the proposed plan, and shall provide the applicant and owner written notice of the time and place of the presentation. The board may authorize the county attorney to prepare an impact fee credit agreement with the feepayer only if:

- (1) Such proposed plan is in conformity with contemplated improvements and additions to the major road network system contained in the first five (5) years of the county transportation improvement plan or a municipal CIP or otherwise approved by supermajority vote of the board, and
  - (2) Such proposed plan, viewed in conjunction with other existing or proposed plans, will not adversely impact the cash flow or liquidity of any transportation impact fee trust account in such a way as to frustrate or interfere with other planned or ongoing growth-necessitated transportation improvements and additions to the major road network system; and
  - (3) Such proposed plan, viewed in conjunction with other existing or proposed plans, will not create a detrimental imbalance between the arterial and collector roadways; and
  - (4) The proposed plan is consistent with the public interest. Upon approval of a proposed plan of construction or contribution, the county administrator or his designee shall determine the amount of developer credit based upon the standards of valuation described in subsection (c) below, and shall approve the timetable for completion of construction.
- (d) The amount of developer credit to be applied shall be determined according to the following standards of valuation:
- (1) The value of contributed land shall be based upon a written appraisal of fair market value by a qualified and professional appraiser acceptable to the county and based on an appraisal of the fair market value of the property to be contributed, as of the date of the contribution. However, the county may require submission of an additional appraisal by an appraiser selected by the county, at the expense of the applicant, if the appraisal submitted by the applicant is in excess of the value derived on the basis of the current county property appraiser's assessment multiplied by a factor of 1.50.
  - (2) The actual cost of construction of off-site road improvements to the major road network system based upon costs certified by a professional engineer. However, in no event shall any credit be granted for the construction of off-site road improvements in excess of the estimated costs approved by the county unless the construction project is competitively bid, in which case the credit shall be the actual cost or one hundred twenty (120) percent of the bid amounts whichever is less.
- (e) All construction cost estimates shall be based upon, and all construction plans and specifications and applicable competitive bidding procedures shall be in conformity with the road construction standards and procedures of the state, county or city, as applicable. All plans and specification shall be approved by the appropriate governmental entity prior to commencement of construction.
- (f) Upon approval for the contribution of land or construction of off-site road improvements, an impact fee credit agreement shall be entered into between the county and the owner. A nonrefundable processing, review and audit fee of two thousand five hundred dollars (\$2,500.00) shall be due once the plan has been approved and prior to the preparation of an impact fee credit agreement by the county attorney. The agreement shall include, but not be limited to:
- (1) Identification of the parties including a listing of all persons or entities who, collectively, own 100% of the fee simple interest in the real property described in the agreement. If requested by the county attorney, the applicant and owner shall provide to the county attorney, at no cost to the county, an attorney's opinion identifying the record owner, his authority to enter into the agreement and identify any lienholder having lien or encumbrance on the real property which is the subject of the agreement. Said opinion shall specifically describe each of the recorded instruments under which the record owner holds title, each lien or encumbrance, and cite appropriate recording information and incorporate by reference a copy of all such reference instruments.
  - (2) A finding that the construction or contributions contemplated by the agreement are consistent with the comprehensive plan.

- (3) A legal description of the site of the impact generating land development activity subject to the agreement.
- (4) The duration of the agreement shall be for a period of five (5) years unless the applicant requests a longer period in which the board may approve a period of up to twenty (20) years. All credits available under an impact fee credit agreements shall be transferable within the applicable road construction district. In no event shall the duration exceed twenty (20) years, exclusive of any moratoria, from the date of recording in the official records.
- (5) A description of the construction or contributions to the major road network system to be made pursuant to the agreement.
- (6) An acknowledgment that the construction or contributions contemplated under the agreement shall be construed and characterized as work done and property rights acquired by the county for the improvement of a road within the boundaries of a right-of-way and that the county has exclusive control of the construction or contributions, including whether or not they are subsequently transferred to another governmental agency.
- (7) Adoption of the approved time schedule for completion of the plan.
- (8) Determination of the amount of credit to be granted.
- (9) A requirement that the owner keep or provide for retention of adequate records and supporting documentation which concern or reflect total project cost of the off-site road improvements to be contributed. This information shall be available to the county, or its duly authorized agent or representative, for audit, inspection or copying, for a minimum of five (5) years from the termination of the agreement.
- (10) A requirement that the credit for the road impact fees identified in the agreement shall run with the land for which the transportation impact fee is being assessed and shall be reduced by the entire amount of the transportation impact fee due for each building permit issued thereon until the development project is either completed or the credits are exhausted or no longer available.
- (11) That the burdens of the agreement shall be binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.
- (12) An acknowledgment that the failure of the agreement to address any permit, condition, term, or restriction shall not relieve either the applicant or the owner, or their successors, of the necessity of complying with any law, ordinance, rule or regulation governing said permitting requirements conditions, terms or restrictions.
- (13) Compliance with the risk management guidelines which may be established by the county's risk management department from time to time, including but not limited to insurance and indemnification language acceptable to the county.
- (14) Annual review and audit of performance under the agreement to determine whether or not there has been demonstrated good faith compliance with the terms of the agreement and to report the credit applied toward payment of transportation impact fees and the balance of available and unused credit. If the board finds, on the basis of substantial competent evidence, that there has been a failure to comply with the terms of the agreement, the agreement may be revoked or modified by the county.
- (15) To allow for modification or revocation of the agreement as is necessary to comply with relevant state or federal laws, if state or federal laws are enacted after the execution of the agreement which are applicable to and preclude parties' compliance with the terms of the agreement.
- (16) To allow amendment or cancellation by mutual consent of the parties to the agreement or by their successors in interest.
- (17) Recording of the agreement in the official records within fourteen (14) days after the county enters into the agreement.

- (18) An acknowledgment that the county will establish the time frame when the credit becomes available on all future roadways contained on the major road network. Such timeframe shall be based on when traffic volumes are expected to reach a level consistent with the classification of the road as a county collector or arterial road.
- (g) A developer seeking an impact fee credit agreement pursuant to proposed improvements under a municipal development order may request board approval of a written impact fee credit agreement prior to the issuance of a municipal development order. Any developer that anticipates seeking a credit pursuant to a municipal development order shall contact the county impact fee coordinator immediately upon becoming aware of its possible eligibility for a credit. The county shall be entitled to review all traffic studies and participate with the municipality in negotiations with the developer. Prior to municipal approval of the development order, the developer shall prepare and submit a proposed impact fee credit agreement to the county administrator for review and comment. If the board approves the impact fee credit agreement and the municipality approves the development order, the developer will be entitled to credits as set forth in the impact fee credit agreement pursuant to the provisions of this section without further board approval. The board may grant partial credits for proposed improvements under a municipal development order.
- (h) Any road right-of-way or land required to be dedicated to the county as a condition of development approval shall be dedicated no later than the time at which impact fees are required to be paid under this section. The portion of the fee represented by a credit for construction shall be deemed paid when the construction is completed and accepted by the county for maintenance or when adequate security for the completion of the construction has been provided.
- (i) Any developer contribution credit granted from the transportation impact fee shall only be for construction or contributions made to the major road network system to accommodate growth within the respective road construction district where the impact generating land development activity is located. Credits granted under this section shall run with the land and may be assigned to other developments, regardless of ownership, within the same road construction district.

**Sec. 10-324. - Reserved.**

**Sec. 10-325. - Use of funds.**

- (a) All transportation impact fee funds collected under this division are expressly designated for the accommodation of impacts reasonably attributable to the proposed development, and shall be used solely for the purpose of capital improvements for roads on the county's major road network system, and not for maintenance or operations. Transportation impact fees may be used for the following purposes, including, but not limited to:
- (1) Design and construction plan preparation;
  - (2) Permitting;
  - (3) Right-of-way acquisition, including costs of acquisition or condemnation;
  - (4) Construction of new through lanes;
  - (5) Construction of new turn lanes;
  - (6) Construction of new bridges;
  - (7) Construction of new drainage facilities in conjunction with new roadway construction;
  - (8) Purchase and installation of new traffic signalization;
  - (9) Construction of new curbs, medians and shoulders;
  - (10) Construction management and inspection;
  - (11) Surveying and soils and material testing;
  - (12) Consultant fees to study and update this division and to provide specific trip characteristic studies.
  - (13) Environmental mitigation costs.

- (14) Payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the county to provide funds to construct or acquire off-site roadway improvements on the major road network system. Funds on deposit in the respective transportation impact fee trust accounts shall not be used for any expenditure that would be classified as a maintenance or repair expense, nor shall they be used on local roads or on interstate highways.
  - (15) Intelligent transportation system costs that increase roadway capacity or optimize the use of roadway capacity or optimize the use of road capacity including but not limited to, new traffic signals, computerized signalization systems, computerized traffic monitoring systems and computerized changeable message systems.
  - (16) Construction of sidewalks, bicycle lanes and mass transit enhancements (e.g., transit shelters, bus turnouts or bus bulbs).
- (b) There are hereby established two road construction districts as shown on Exhibit A and described as follows:
- (1) West county district: The west county district includes all lands in unincorporated and incorporated Marion County, which are west of I-75; and
  - (2) East county district: The east county district includes all lands in unincorporated and incorporated Marion County, which are east of I-75.
- (c) Proceeds collected from road impact fees and all interest accrued on such funds shall be used solely within the road construction district from which the fees have been collected, in effect at the time impact fees were paid, or for projects in other road construction districts which are of direct benefit to the district from which funds were collected. The board may approve the use of funds collected in one district for a project in another district after a specific finding that the project will be a direct benefit to the district where funds were collected. There were previously four road construction districts as established by Ordinance No. 94-33, which districts are depicted herein and attached hereto as **Exhibit "B."** Solely for the purpose of expenditure of transportation impact fees that have been collected within those four districts before the effective date of this article, those four districts and their corresponding trust accounts shall remain in effect until all funds that were previously collected within any of those districts has been spent within such district, or within another district based on a specific board finding of direct benefit as provided above.
- (d) There is hereby established a Marion County Impact Fee Ordinance Trust Fund for each road construction district for the purpose of ensuring that the fees collected pursuant to this division are designated and held separately for use in an accommodation of impacts reasonably attributable to the proposed land development activity within the road construction district from which they are collected.
- (e) Any proceeds in a trust fund account on deposit, not immediately necessary for expenditure, may be invested in interest bearing assets. All income derived from this investment shall be added to and retained in the trust fund account.
- (f) Each year, at the time the annual county budget is reviewed, the county administrator or his designee shall propose appropriations to be spent from the road construction district trust fund. After review of the county administrator's recommendation, the board shall approve, modify, or deny the recommended expenditures of the trust fund monies. Any amounts not appropriated from a trust fund account, together with any interest earnings, shall be carried over in the specific trust fund account to the following fiscal period.

**Sec. 10-326. - Mobile home impact fees.**

- (a) Payment. From and after the effective date of this division, all mobile homes sited in Marion County shall pay the applicable impact fee provided in section 10-322 of this article per residence sited on the land, unless otherwise provided for herein. All impact fees paid shall remain and run with the land and the obligation of payment shall be upon the landowner. On June 1, 2002, all certificates of payment that have not been surrendered to the county administrator or his designee for intradistrict or interdistrict relocation shall expire and shall remain and run with the land for which the certificate of payment was issued.

- (b) Replacement mobile home. The replacement of an existing mobile home on the same land will not be required to pay an additional impact fee. In order to qualify as an existing mobile home and avoid payment of an impact fee, the applicant must present evidence to the county administrator or his designee that the existing mobile home was licensed by the State of Florida, located in Marion County and use as a residence since January 1, 1990. Evidence may include a mobile home certificate of payment, electric utility service statements, tax roll records or other such records that demonstrate that the existing mobile home was used as a residence. A statement from any individual verifying the residence is not acceptable.

**Sec. 10-327. - Transportation impact fee schedule.**

Except as otherwise provided by the terms of this article, transportation impact fees shall be paid in accordance with the schedule set forth below.

**MARION COUNTY TRANSPORTATION IMPACT FEE SCHEDULE**

<b>ITE LUC</b>	<b>Land Use</b>	<b>Unit</b>	<b>Impact Fee Amount</b>
<b>RESIDENTIAL:</b>			
210	Single Family (Detached) - 1,500 sf or less	du	\$1,093
	Single Family (Detached) – Greater than 1,500 sf and less than 2,500 s.f.	du	\$1,397
	Single Family (Detached) - 2,500 sf or greater	du	\$1,562
220	Multi-Family (Apartment); 1-2 Stories	du	\$903
222/223	Multi-Family (Apartment); 3+ Stories	du	\$568
240	Mobile Home Park	du	\$514
252	Assisted Care Living Facility (ACLF)	du	\$184
<b>LODGING:</b>			
310	Hotel	room	\$375
320	Motel	room	\$267
<b>RECREATION:</b>			
412	General Recreation/County Park	acre	\$136
430	Golf Course	hole	\$2,774
492	Racquet Club/Health Spa	1,000 sf	\$2,065
520	Elementary School (Private)	student	\$55
522	Middle School (Private)	student	\$76
530	High School (Private)	student	\$80
540	University/Jr. College (7,500 or fewer students) (Private)	student	\$156
550	University/Jr. College (more than 7,500 students) (Private)	student	\$116
560	Church	1,000 sf	\$410
565	Day Care Center	1,000 sf	\$1,318
590	Library	1,000 sf	\$2,377
610	Hospital	1,000 sf	\$879
620	Nursing Home	bed	\$80
640	Animal Hospital/Veterinary Clinic	1,000 sf	\$539
<b>OFFICE:</b>			
710	Office	1,000 sf	\$676
720	Medical Office/Clinic	1,000 sf	\$1,528



770	Business Park	1,000 sf	\$785
<b>RETAIL:</b>			
820	Retail 6,000 sfgla or less	1,000 sfgla	\$442
820	Retail greater than 6,000 sfgla	1,000 sfgla	\$1,014
841	New/Used Auto Sales	1,000 sf	\$1,325
850	Supermarket	1,000 sf	\$1,490
853	Convenience Market w/Gasoline	1,000 sf	\$3,963
862	Home Improvement Superstore	1,000 sf	\$619
880/881	Pharmacy/Drug Store with or w/o Drive-Thru	1,000 sf	\$791
890	Furniture Store	1,000 sf	\$217
911	Bank/Savings Walk-In	1,000 sf	\$1,720
912	Bank/Savings Drive-In	1,000 sf	\$2,260
931	Restaurant	1,000 sf	\$2,803
n/a	Small Local Restaurant	1,000 sf	\$1,340
941	Quick Lube	service bay	\$1,334
942	Automobile Care Center	1,000 sf	\$1,047
944	Gas/Service Station	fuel pos.	\$850
947	Self-Service Car Wash	service bay	\$811
<b>INDUSTRIAL:</b>			
110	General Light Industrial	1,000 sf	\$428
140	Manufacturing	1,000 sf	\$234
150	Warehousing	1,000 sf	\$218
151	Mini-Warehouse	1,000 sf	\$78
152	High-Cube Warehouse	1,000 sf	\$102

**Secs. 10-328—10-350. - Reserved.**

**SECTION 3. SEVERABILITY.** It is hereby declared to be the intent of the Board of County Commissioners of Marion County, Florida that if any section, subsection, clause, phrase, or provision of this ordinance is held invalid or unconstitutional, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

**SECTION 4. REPEAL.** Article XI of the Marion County Code of Ordinances – IMPACT FEE FOR FIRE RESCUE FACILITIES AND TRANSPORTATION FACILITIES, in effect prior to the effective date of this ordinance is, upon the effective date of this ordinance, repealed in its entirety and superseded by this ordinance.

**SECTION 5. INCLUSION IN CODE.** It is the intention of the Board of County Commissioners of Marion County, Florida, and it is hereby provided that the provisions of this ordinance shall become and be made part of the Code of Marion County, Florida, that the sections of this ordinance may be renumbered or re-lettered to accomplish such intention; and that the word “ordinance” may be changed to “section,” “article,” or other appropriate designation.

**SECTION 6. EFFECTIVE DATE.** A certified copy of this Ordinance as enacted shall be filed by the Clerk of the Board with the Office of the Secretary of State of Florida within ten days after enactment, and this ordinance shall take effect in on January 1, 2017.

DULY ADOPTED this 1st day of September, 2015.

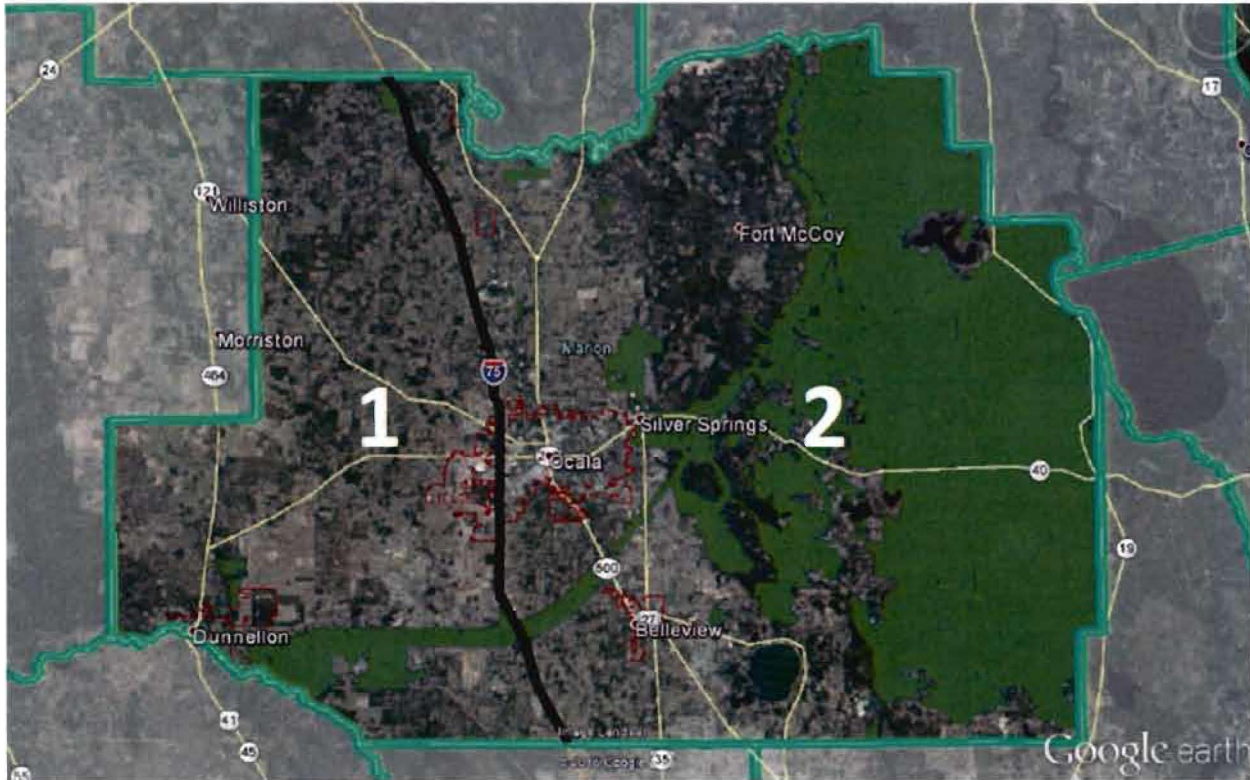
BOARD OF COUNTY COMMISSIONERS  
MARION COUNTY, FLORIDA

*Stan McClain*  
STAN MCCLAIN, CHAIR

ATTEST:

*David R. Ellspermann*  
DAVID R. ELLSPERMANN, CLERK

Exhibit A  
Road Construction Districts



RECEIVED NOTICE FROM  
SECRETARY OF STATE ON  
SEPTEMBER 8, 2015 THAT  
ORDINANCE WAS FILED ON  
SEPTEMBER 8, 2015.

EXHIBIT B  
 MARION COUNTY  
 TRAFFIC IMPACT FEE  
 CONSTRUCTION DISTRICTS  
 Marion County, Florida

LEGEND

	Existing	Proposed
ROAD WIDTH	—————	—————
ROAD WIDTH	—————	—————
ROAD WIDTH	—————	—————

NOTE:  
 Dotted line indicates that no information on  
 or improvement currently exist.

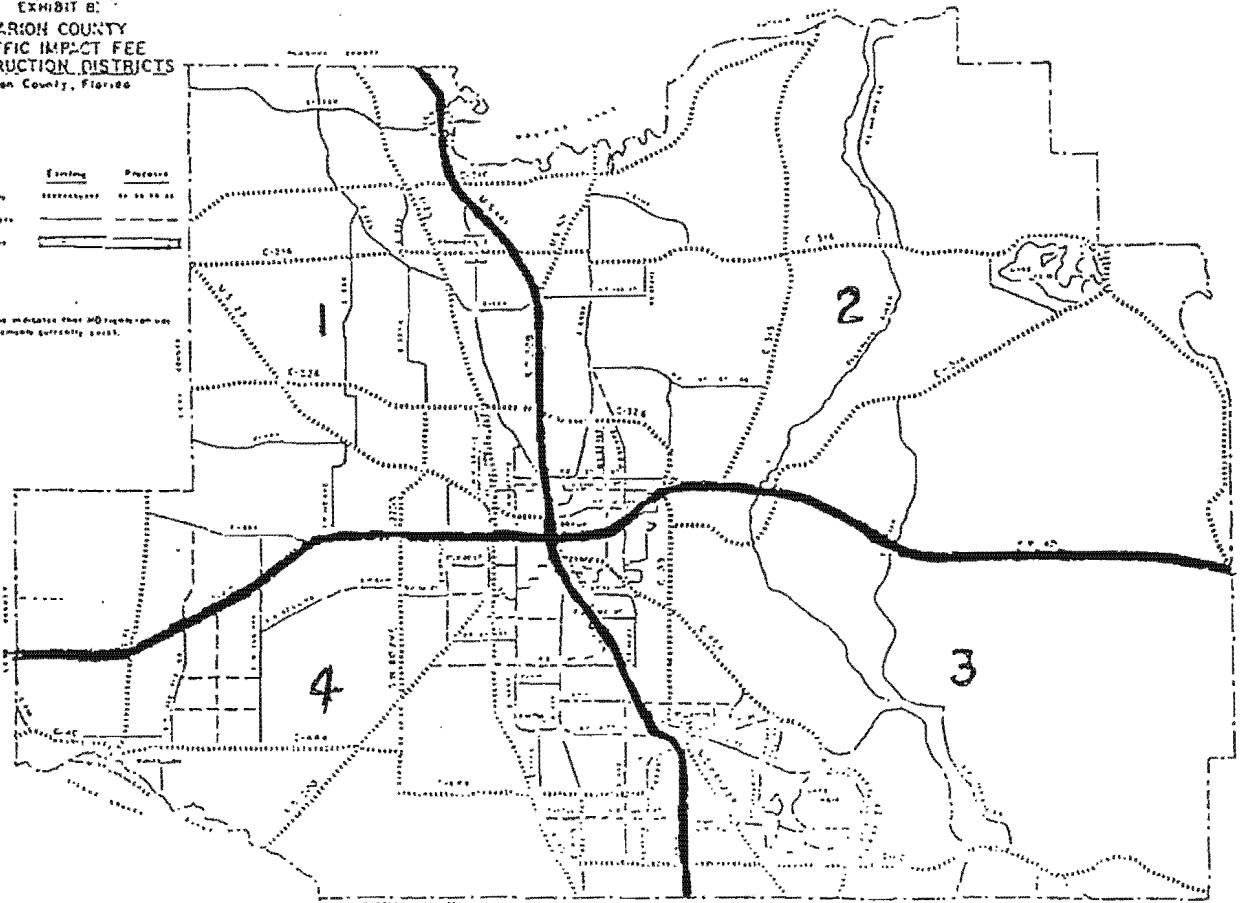


EXHIBIT "B"