

ORDINANCE NO. 1400

AN ORDINANCE OF THE CITY OF OVIEDO, FLORIDA, ESTABLISHING AN IMPACT FEE ASSISTANCE PROGRAM FOR TRANSPORTATION, FIRE AND RESCUE (EMERGENCY MEDICAL SERVICE), LAW ENFORCEMENT, RECREATION AND PARKS, POTABLE WATER, WASTEWATER, AND ADMINISTRATIVE FACILITIES IMPACT FEES PROVIDING BUDGET, ELIGIBLE LAND USES, LOCATION REQUIREMENTS, MINIMUM CRITERIA, MONETARY IMPACT FEE ASSISTANCE, NON-MONETARY IMPACT FEE ASSISTANCE, APPLICATION, APPLICATION REVIEW, ANNUAL REPORT, AND DEVIATIONS FROM LOCATION REQUIREMENTS OR MINIMUM CRITERIA; PROVIDING FOR CODIFICATION; AND PROVIDING FOR CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City of Oviedo has established impact fees for Transportation, Fire and Rescue (Emergency Medical Service), Law Enforcement, Recreation and Parks, Potable Water, Wastewater, and Administrative Facilities; and

WHEREAS, the City's Code of Ordinances provides for the collection of impact fees upon the issuance of a building permit or development order for new development activities; and

WHEREAS, the City Council desires to establish an impact assistance program to assist eligible land uses with the payment of impact fees as a means to encourage economic investment within the corporate limits of the City in order to improve the City's tax base and to encourage the diversity of services to the City's residents; and

WHEREAS, the City Council has established a strategic priority to pursue economic development and diversification of the tax base; and

WHEREAS, on September 18, 2006, the City Council adopted a Strategic Economic Development Plan to guide the City's economic development program; and

WHEREAS, the Strategic Economic Development Plan recommends the development of grant programs to subsidize development meeting criteria established by the City; and

WHEREAS, the establishment of an impact fee assistance program is consistent with the City's strategic priority to pursue economic development and diversification of the tax base and the recommendations of the Strategic Economic Development Plan; and

WHEREAS, the City Council has established an Economic Development Task Force to provide advice to the City Council on the nurturing and diversification of the City's economic activities; and

WHEREAS, the Economic Development Task Force reviewed said impact fee assistance program at its regular meeting on Thursday, February 1, 2007, and thereat, recommended approval of said impact assistance program.

NOW, THEREFORE, BE IT ORDAINED BY the City Council of the City of Oviedo as follows:

SECTION 1. LEGISLATIVE FINDINGS AND INTENT. The provisions set forth in the recitals to this Ordinance (whereas clauses) are hereby adopted by the City Council of the City of Oviedo as the legislative findings and intent pertaining to this Ordinance.

SECTION 2. The City Council of the City of Oviedo hereby adopts the following to establish an impact fee assistance program to assist eligible land uses with the payment of required Transportation, Fire and Rescue (Emergency Medical Service), Law Enforcement, Recreation and Parks, Potable Water, Wastewater, and Administrative Facilities impact fees:

1. Budget: The City Council has established an Economic Development Trust Fund. Fifty (50) percent of the budgeted allocation in the Economic Development Fund shall be dedicated for the Impact Fee Assistance Program. Allocation of funds for impact fee assistance shall be at the discretion of the City Council and subject to funding availability.

2. Eligible Land Uses: The City Council has established a list of land uses eligible for impact fee assistance that is divided into three (3) tiers. Funding priority may be given to Tier I eligible land uses over Tier II and Tier III eligible land uses. Funding priority may be given to Tier II eligible land uses over Tier III eligible land uses.

2.1 Tier I eligible land uses are the listed land uses contained in the *Finance and Insurance; Professional, Scientific and Technical Services; and Health Care and Social Assistance* industry clusters of the North American Industry Classification System (NAICS) as follows:

Tier I Finance and Insurance	
NAICS Code	NAICS Title
5211	Monetary Authorities - Central Bank
5222	Nondepository Credit Intermediation
5223	Activities Related to Credit Intermediation
5231	Securities and Commodity Contracts Intermediation and Brokerage
5232	Securities and Commodity Exchanges
5241	Insurance Carriers
5242	Agencies, Brokerages, and Other Insurance Related Activities
5251	Insurance and Employee Benefit Funds
5259	Other Investment Pools and Funds

Tier I Professional, Scientific, and Technical Services	
NAICS Code	NAICS Title
5411	Legal Services
5412	Accounting, Tax Preparation, Bookkeeping, and Payroll Services
5413	Architectural, Engineering, and Related Services
5414	Specialized Design Services
5415	Computer Systems Design and Related Services
5416	Management, Scientific, and Technical Consulting Services
5417	Scientific Research and Development Services
5418	Advertising and Related Services
5419	Other Professional, Scientific, and Technical Services

Tier I Health Care and Social Assistance	
NAICS Code	NAICS Title
6221	General Medical and Surgical Hospitals

2.2 Tier II eligible land uses are listed land uses in the *Health Care and Social Assistance; Accommodation and Food Services; Information; Manufacturing; Educational Services; and Arts, Entertainment, and Recreation; and Finance and Insurance* industry clusters of the NAICS as follows:

Tier II Health Care and Social Assistance	
NAICS Code	NAICS Title
6211	Offices of Physicians
6212	Offices of Dentists
6213	Offices of Other Health Practitioners
6214	Outpatient Care Centers
6215	Medical and Diagnostic Laboratories
6216	Home Health Care Services
6222	Psychiatric and Substance Abuse Hospitals
6223	Specialty (except Psychiatric and Substance Abuse) Hospitals
6231	Nursing Care Facilities
6232	Residential Mental Retardation, Mental Health and Substance Abuse Facilities
6233	Community Care Facilities for the Elderly
6241	Individual and Family Services
6243	Vocational Rehabilitation Services

Tier II Accommodation and Food Services	
NAICS Code	NAICS Title
7211	Traveler Accommodation
7221	Full-Service Restaurants

Tier II Information	
NAICS Code	NAICS Title
5111	Newspaper, Periodical, Book, and Directory Publishers
5112	Software Publishers
5121	Motion Picture and Video Industries
5122	Sound Recording Industries
5151	Radio and Television Broadcasting
5152	Cable and Other Subscription Programming
5161	Internet Publishing and Broadcasting
5171	Wired Telecommunications Carriers
5172	Wireless Telecommunications Carriers
5174	Satellite Telecommunications
5175	Cable and Other Program Distribution
5181	Internet Service Providers and Web Search Portals

Tier II Manufacturing	
NAICS Code	NAICS Title
3341	Computer and Peripheral Equipment Manufacturing
3342	Communications Equipment Manufacturing
3343	Audio and Video Equipment Manufacturing
3391	Medical Equipment and Supplies Manufacturing

Tier II Educational Services	
NAICS Code	NAICS Title
6111	Elementary and Secondary Schools
6112	Junior Colleges
6113	Colleges, Universities, and Professional Schools
6114	Business Schools and Computer and Management Training
6115	Technical and Trade Schools
6116	Other Schools and Instruction

Tier II Arts, Entertainment, and Recreation	
NAICS Code	NAICS Title
7111	Performing Arts Companies
7112	Spectator Sports
7114	Agents and Managers for Artists, Athletes, Entertainers, and Other Public Figures
7121	Museums, Historic Sites, and Similar Institutions
71311	Amusement and Theme Parks

Tier II Finance and Insurance	
NAICS Code	NAICS Title
5221	Depository Credit Intermediation

2.3 *Tier III* eligible land use is work force housing.

2.4 *Review:* Tier I eligible land uses shall be reviewed and evaluated with each update of the City’s Strategic Economic Development Plan. Tier II and Tier III eligible land uses shall be reviewed and evaluated annually at the City Council’s discretion. The addition or removal of an eligible land use shall require an amendment to this ordinance.

2.5 *Other Uses:* If an application for impact fee assistance is for a land use not classified as an eligible land use by this ordinance, impact fee assistance shall not be granted unless an amendment to the enabling ordinance classifying the proposed land use as an eligible land use is first adopted by the City Council.

3. Location Requirements: Tier I and Tier II eligible land uses must be located within one of the six (6) geographical target areas identified in the City of Oviedo Strategic Economic Development Plan or the City of Oviedo Community Redevelopment Area. Tier III eligible land use may locate in any residential zoning district subject to the permissible uses and minimum land development standards of the zoning district.

4. Tier I and Tier II Minimum Criteria

4.1 A minimum three (3) new permanent, full-time jobs paying a minimum of the Seminole County average annual wage as determined by the Florida Department of Labor and Employment Security must be created within two (2) years of the issuance of a certificate of occupancy or other final approval document; and

4.2 New jobs must be retained a minimum of two (2) years from the date of job creation and hire.

4.3 Minimum Floor Area for Tier I Eligible Land Uses 2,000 square feet

4.4 Minimum Floor Area for Tier II Eligible Land Uses 5,000 square feet

4.5 Commitment to provide health care and other benefits.

4.6 Commitment to hire City residents.

4.7 Commitment to use local suppliers for the purchase goods and services.

4.8 Commitment to employee training.

4.9 Commitment to remain at the proposed location for a minimum of five (5) years.

5. Tier III Minimum Work Force Housing Criteria

- 5.1 A minimum of fifty (50) percent of the total dwelling units of a residential development must be allocated for work force housing.
- 5.2 Work force rental units must be affordable to households at or below 100% of the median household income for the City of Oviedo.
- 5.3 Work force ownership units must be affordable to households at or below 120% of the median household income for the City of Oviedo.
- 5.4 The work force housing units shall not be segregated from the market rate housing units.
- 5.5 The applicant shall commit to impose deed restrictions requiring the workforce housing units to remain workforce housing units for at least fifteen (15) years.

6. Monetary Impact Fee Assistance

New Job Creation	Amount of Impact Fee Assistance
New Permanent, Full-time Job paying a minimum of the Seminole County average annual wage as determined by the Florida Department of Labor and Employment Security.	\$1,000 per new job created plus \$500 per new job allocated for the hiring of a City resident up to a maximum of the total amount of the required impact fees.
New Permanent, Full-time Job paying a minimum of 115% of the Seminole County average annual wage as determined by the Florida Department of Labor and Employment Security.	\$1,500 per new job created plus \$500 per new job allocated for the hiring of a City resident up to a maximum of the total amount of the required impact fees.
New Permanent, Full-time Job paying a minimum of 150% of the Seminole County average annual wage as determined by the Florida Department of Labor and Employment Security.	\$2,000 per new job created plus \$500 per new job allocated for the hiring of a City resident up to a maximum of the total amount of the required impact fees.
New Permanent, Full-time Job paying a minimum of 200% of the Seminole County average annual wage as determined by the Florida Department of Labor and Employment Security.	\$2,500 per new job created plus \$500 per new job allocated for the hiring of a City resident up to a maximum of the total amount of the required impact fees.
Workforce Housing	\$1,500 per workforce dwelling unit up to a maximum of \$75,000 or the total amount of the required impact fees, whichever is less

7. Non-monetary Impact Fee Assistance: An application for impact fee assistance may also request assistance with the timing of the payment of impact fees imposed by City. Such assistance may provide for deferring the payment of fees to the certificate of occupancy or other

specified point in time; installment payments of the fee; credit and security arrangements acceptable to the City; and/or other matters relating to the fee.

8. Impact Fee Assistance Application

8.1 Application Submittal: Any person who initiates development involving an eligible land use shall submit an application to the City Manager or his/her designee for impact fee assistance for Transportation, Fire and Rescue (Emergency Medical Service), Law Enforcement, Recreation and Parks, Potable Water, Wastewater, and Administrative Facilities impact fees. No application fee is required.

8.2 Minimum Application Information: The Impact Fee Assistance Application shall include the following information if applicable to the proposed development:

- a) Company profile and background.
- b) The type of Land Use proposed including six (6) digit NAICS code and NAICS title.
- c) The location of the proposed development.
- d) The required impact fees.
- e) The amount of monetary assistance requested.
- f) The type of non-monetary assistance requested.
- g) The amount of investment
 - i) Value of Property to be Purchased
 - ii) Value of New Construction
 - iii) Value of Machinery/Equipment or Personal Property
 - iv) Total Proposed Capital Investment
- h) For Tier I and Tier II Eligible Land Uses:
 - i) The square footage of the proposed development.
 - ii) The proposed Land Use is a new business or expansion of an existing business.
 - iii) The total number of full-time, part-time, and temporary jobs currently on payroll.
 - iv) The total number of new full-time, part-time, and temporary jobs to be created over the next two (2) years.
 - v) The number of permanent, full-time jobs created with a wage that is equal to the average annual wage for Seminole County as determined by the Florida Department of Labor and Employment Security.
 - vi) The number of permanent, full-time jobs created with a wage that is equal to 115% above the average annual wage for Seminole County as determined by the Florida Department of Labor and Employment Security.
 - vii) The number of permanent, full-time jobs created with a wage that is equal to 150% above the average annual wage for Seminole County as determined by the Florida Department of Labor and Employment Security.
 - viii) The number of permanent, full-time jobs created with a wage that is equal to 200% above the average annual wage for Seminole County as determined by the Florida Department of Labor and Employment Security.
 - ix) Estimated number of City of Oviedo residents to be employed full-time.
 - x) Description of employee health care and other benefits.
- i) For Tier III Eligible Land Uses:

- i) Total number of dwelling units.
- ii) Total number of designated workforce dwelling units.
- iii) Number of rental units that are affordable to households at or below 100% of the median household income for Seminole County.
- iv) Number of ownership units that are affordable to households at or below 120% of the median household income for Seminole County.
- j) Any other information to assist the City with determining the amount of assistance warranted for the proposed land use.
- k) A Fair Share Impact Fee Agreement addressing the type and/or amount of impact fee assistance requested; timing and/or method of impact fee payment; credit and security arrangements acceptable to the City; annual reporting; minimum commitments, penalties when the assistance recipient fails to perform any condition of the agreement or violates any provision of law; and/or other matters relating to impact fee assistance.

9. Application Review Process

9.1.The City Manager, and/or his/her designee, and the City Attorney shall review the proposed impact fee assistance application and fair share impact fee agreement; formulate recommendations; and forward the recommendations to the City's Economic Development Task Force.

9.2.The Economic Development Task Force shall review the proposed impact fee assistance application; fair share impact fee agreement; and the City Manager's and City Attorney's recommendations. The Economic Development Task Force shall make a written recommendation to the City Council to approve, approve with revisions, or deny the proposed impact fee assistance application and fair share impact fee agreement.

9.3.The City Council shall review the proposed impact fee assistance application and fair share impact fee agreement; the recommendations of the City Manager, City Attorney, and Economic Development Task Force; and act to approve, approve with revisions; or deny the proposed impact fee assistance application and fair share impact fee agreement.

9.4.If the proposed impact fee assistance application and fair share impact fee agreement are approved by the City Council, the Fair Share Impact Fee Agreement shall be executed by the person requesting assistance and the City Manager on behalf of the City.

9.5.Approval of the application is not transferable to other parties and does not run with the land.

10. Annual Report: If an applicant is awarded impact fee assistance, the applicant shall provide a report within one (1) year of receiving a certificate of occupancy and annually thereafter for a minimum of five (5) years demonstrating continued satisfaction of the minimum criteria for this impact fee assistance program. Should a recipient of assistance fail to comply with the terms and conditions of the Fair Share Impact Fee Agreement, the City may terminate the agreement and impose sanctions including, but not limited to, pursuit of a refund of all assistance monies, reimbursement of all costs incurred in the processing and administration of the project, and debarment from participation in future assistance.

11. Deviations from Locational Requirements or Minimum Criteria: It is recognized that because of the individual characteristics of any given business, flexibility in the application of the locational requirements or minimum criteria for eligible land uses may be warranted in certain situations. The City Council may, therefore, grant deviations from the locational requirements or minimum criteria for eligible land uses whenever it finds such deviations will fulfill the intent of this program. If an application requests multiple deviations, each deviation shall be evaluated independently. Any deviations from the locational requirements or minimum criteria for eligible land uses must be specified and justified prior to City Council approval.

SECTION 3. Adoption of Rules by City Manager. The City Manager shall have the power and authority to promulgate administrative rules and formulate incipient City policy in order to implement the provisions of this Ordinance.

SECTION 4. Codification. The provisions of this Ordinance shall be codified as and become and be made a part of the *City of Oviedo Code of Ordinances*. The Sections of this Ordinance may be renumbered or relettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections 1, 3, 4, 5, 6, and 7 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION 5. Conflict. To the extent of any conflict between any other City regulations and ordinances and this Ordinance, this Ordinance shall be deemed to control.

SECTION 6. Severability. 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 effect the validity of the remaining portion hereof.

SECTION 7. Effective Date. This Ordinance shall become effective immediately upon passage and adoption.

FIRST READING: _____

SECOND READING: _____

PASSED AND ADOPTED this _____ day of _____, 2007.

THOMAS G. WALTERS
MAYOR of the City of Oviedo, Florida

ATTEST:

BARBARA J. BARBOUR
CITY CLERK