



# Orange County Government Impact Fee Assessment Guide

## 1. Permit Review and Assessment

All Vertical building permits (new construction, alterations, use permits) are reviewed by the impact fee section. Structures determined to be assessed will be charged in accordance with the impact fee rate schedule schedules found in Chapter 23 of the Orange County Code (the “Code”), as may be amended by the Orange County Board of County Commissioners (the “BCC”). The rate schedule may be found on the Orange County Ordinances, Impact Fee Brochure, online website or the Orange County Fee Directory.

## 2. Use Permit; Change of Use

Business Tax Receipts are issued by the [Orange County Tax Collector](#). However, the process for obtaining a BTR begins with a review by the Orange County Zoning Division to ensure the proposed use is allowed in a particular location. Once approved by the Orange County Business Tax Receipt Office and Zoning Department then you may proceed to the Division of Building Safety.

A Use Permit may also be required. This permit is to confirm that the building you want to occupy is consistent with the building code requirements for that use. If you are changing the use of the space or the ownership of the business, a new [Use Permit](#) is required.

Impact Fees may be due when the use of a space or building changes. For a change of use, credits may be applied for the previous use of the structure. Credits are granted based on the highest previous use using the currently active impact fee rates.

## 3. Payment of Impact Fees

Impact Fees are due and payable when the permit is in the “Ready to Issue” status. Impact Fees can be paid on FastTrack or at the cashier’s booth.

## 4. Exemptions

Affordable housing, Accessory dwelling units, Student housing and Senior housing are exempt from school impact fees pursuant to Section 23-161 of the Code, as may be amended.

Notwithstanding that there may be students generated by the use, any project that meets or exceeds the definition of “affordable” pursuant to Section 163.31801(9), F.S., may be exempted from all or a portion of the payment of impact fees provided the level and duration of such affordability is documented to the County’s (or applicable local government’s) satisfaction prior to the granting of any impact fee exemption.

Affordable housing and Accessory dwelling units are exempt from transportation impact fees pursuant to Section 23-98 of the Code, as may be amended.

Impact Fee exemptions for the replacement of a building or structure located on the same parcel site in 1983 or thereafter shall be limited to the current equivalent fee for the original structure. When determining the amount of the exemption, the highest and best use previously assessed and paid shall be used. The exemption value will remain with the land and applied according to the impact fee ordinance in effect at the time of the issuance of the building permit(s).



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- If the land use of the replacement building or structure is different from that of the previous structure, the exemption shall be limited to the current equivalent fee for the original structure. Documentation of the existence of the building or structure in 1983 or thereafter shall be submitted to the Planning, Environmental, & Development Services Department, Fiscal & Operational Support Division.
- Demolition Permits must be Complete in order to provide demolition impact fee exemptions. If a Demolition Permit has not been pulled, Property Tax records showing the previous structure may be used instead.
- Buildings removed between 1983 and 1993 can be exempt from Road, Fire and Law impact fees.
- Buildings removed between 1993 and 2003 can be exempt from Road, Fire, Law and School impact fees.
- Buildings removed after 2003 can be exempt from Road, Fire, Law, School and Parks impact fees.
- Demolition Exemptions for Single Family Homes are provided the lowest size tier impact fee rates unless documentation is available showing the size of the removed home.

## 5. Affordable Housing

Affordable housing means housing that meets or exceeds the definition of “affordable” pursuant to Section 163.31801(11), Florida Statutes, as determined by County. Must submit a certificate of affordability from the Orange County Affordable Housing Program of the Housing & Community Development Division, or equivalent.

## 6. Deferred Impact Fee Program \*\*\*

\*\*\*Provided an impact fee deferral form has been executed and the service charge required under subsection (b)(3) has been paid. No service charge is applicable to a single family home or duplex.

Land Use	May Defer Fees	Deferred Fees Must Be Paid Prior To:
<b>Single Family Residence - SFR or Duplex</b>	Law	CO
	Fire	CO
	Transportation	CO
	School	CO
	Parks	CO
<b>Mobile Home</b>	Law <u>only</u>	CO
<b>Certified Multifamily Affordable Housing Project</b>	Law	Pre-power, TCO, or CO, whichever comes first
	Fire	Pre-power, TCO, or CO, whichever comes first
	Parks	TCO or CO, whichever comes first
<b>New Multifamily Commercial</b>	Law	Pre-power, TCO, or CO, whichever comes first
	Fire	Pre-power, TCO, or CO, whichever comes first
	Transportation	TCO or CO, whichever comes first
	Parks	TCO or CO, whichever comes first



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**New Commercial Project with a permit valuation of at least \$1,000,000.00**

	Law	Pre-power, TCO, or CO, whichever comes first
	Fire	Pre-power, TCO, or CO, whichever comes first
	Transportation	TCO or CO, whichever comes first

**New Multifamily Townhome Project with a permit valuation of at least \$1,000,000.00**

	Law	Pre-power, TCO, or CO, whichever comes first
	Fire	Pre-power, TCO, or CO, whichever comes first
	Transportation	TCO or CO, whichever comes first

## 7. Non-Profit Impact Fee Grant Information

The Board of County Commissioners created the *Non-Profit Impact Fee Grant Program* to help with the costs of constructing facilities to provide community services.

To be eligible for an impact fee grant, your organization must:

- Be a non-profit organization, exempt from taxation under Section 501(c)(3) of the U.S. Internal Revenue Service (IRS) Code.
- Provide services to Orange County residents, including (but not limited to) criminal justice diversion, substance abuse treatment, after-school programs, homeless shelters, or healthcare counseling.
- Allow Orange County residents equal opportunity to benefit from your organization’s services.

Examples of previously approved projects include:

- Daycare/classroom facility
- Dependency treatment center
- Family life center
- Youth services center
- Recreational facility

You may apply once you have filed a building permit application with the County’s Building Safety Division (the building permit application number will be required for the grant application).

- It is important to file your impact fee grant application and allow it to be processed before your building permit has been issued and before you have paid your impact fees, because grants cannot be used to refund fees that your organization already has paid. It takes about 45 to 60 days to process a grant application.

The application form is available on our website:

[www.ocfl.net/PermitsLicenses/PermittingAndConstructionForms.aspx](http://www.ocfl.net/PermitsLicenses/PermittingAndConstructionForms.aspx) under Impact Fees, and requests the following:

- Information about your organization.
- A description of your organization’s mission, history, services, and clientele
- An organization budget for the current fiscal year
- Proof of your tax-exempt status/copy of IRS 501(c)(3) certificate.
- Budget summary of the proposed project



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- Information about your construction project:
  - The purpose and size of your project
  - Whether fees will be charged for the services provided in your new facility;
  - The building permit application number for your project
  - The estimated impact fees for your project

The applications are distributed to certain staff for review for compliance with the rules and intent of the program. These departments will make a recommendation to the BCC to approve or deny a request.

Impact fees are due at the time of building permit issuance. The impact fee grants cannot be utilized until officially approved by the Orange County Board of Commissioners. If the applicant chooses to pull their building permit prior to BCC approval, the grant application is voided and is not retroactive. Payment of grant cannot be retroactive. If the impact fee was already paid, it cannot be applied.

## 8. Impact Fee Committee

The Impact Fee Committee (IFC) was established to advise the BCC and address impact fee issues, including the alternative impact fee process.

The IFC membership shall consist of the following persons or their designees:

- I. Chairperson to be appointed by the County Administrator or a designee;
- II. Manager of the Traffic Engineering Division;
- III. Manager of the Planning Division;
- IV. Manager of the Transportation Planning Division;
- V. Manager of the Fiscal and Operational Support Division of the Planning, Environmental, & Development Services Department.
- VI. An attorney from the County Attorney's Office shall act as legal counsel to the IFC, shall attend the IFC meetings, and shall assist the IFC in the performance of its responsibilities.

The responsibilities of the IFC are as follows:

- I. To Advise Orange County generally regarding impact fee issues,
- II. Review, and approve or deny, alternative impact fee methodologies and studies,
- III. Oversee all other issues related to maintaining an appropriate system of monitoring and compliance for all aspects of alternative impact fees,
- IV. Hear appeals of staff determinations regarding impact fee exemptions, refunds, or discounts,
- V. Hear appeals from denials of "good faith" refunds pursuant to Sec. 23-95(h), Orange County Code, and
- VI. Addressing other impact fee issues.

## 9. Credit Accounts

Credit accounts may be used to reduce the amount of funds due when a permit is issued. Transportation Credit Accounts (TCA) are generally assigned credits under the terms of a Road Network Agreement in an amount equal to (i) the actual, reasonable incurred cost of off-site improvements for impact fee eligible transportation improvements or (ii) contributions of land, money, or services for such off-site improvements contributed or previously contributed. TCA credits may be applied against any transportation impact fee assessed. TCA credits are non-refundable unless it directly specified in the Road Network Agreement. TCA credits are able to be transferred to other TCA accounts within the same Transportation Impact Fee Zone.



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School Credit Accounts (SCA) are assigned credits for the conveyance of land and/or by a Capacity Enhancement Agreement (CEA), or other agreement, between an applicant and the Orange County School Board ("School Board") committing to mitigation determined to be necessary by the School Board to avoid or mitigate overcrowding individual schools impacted by the proposed residential development. SCA credits may be used against any school impact fee assessed. Refunds for SCA credits must go through the School Board.

### 10. Reservation Accounts

Reservation Accounts are established by the Concurrency Management Official (CMO) to ensure that public facilities and services (Roads and mass transit, Schools, Utilities, including water, wastewater, and stormwater, Solid waste, and Parks) needed to support development be available "concurrent" with the impacts of that development. The concurrency process involves determining whether adequate capacity exists for the facilities listed above, and then reserving capacity for the project.

A capacity reservation fee, as established by resolution of the board of county commissioners, is required to be paid to the county as a condition of capacity reservation in the amount equivalent to the then-applicable impact fees calculated on the basis of the capacity reserved for the term of the Transportation capacity reservation certificate (TCRC) or School capacity reservation certificate (SCRC). A capacity reservation is not a pre-payment of impact fees. It is a payment required to reserve capacity for the project. Reservation accounts are refundable. TCRC Refunds are processed by the Concurrency Management Office and SCRC Refunds are processed by the OCSB. If the Reservation Account has not yet been built out, a 10% Administrative fee will be charged.

### 11. HB 337

Restrictions were imposed on local jurisdictions earlier this year when the Florida legislature and Governor enacted HB 337 with a retroactive effective date of January 1, 2021. The bill is focused on impact fee credits and rate increases. Rate increases are restricted by time frames and allowable percentages.

Transportation Impact Fee Ordinance 2021-36, was also approved this year, including various rate increases effective December 5, 2021. The adopted rates represent 100% of the Study recommendations and constitute an exception to the HB 337 restrictions, due to extraordinary circumstances. Transportation impact fees have not been updated to include rate increases since 2013.

HB 337 allows for this exception to the restrictions, due to extraordinary circumstances if the following conditions are met;

- a. A demonstrated need study justifying any increase in excess of those authorized in paragraph (b), paragraph (c), paragraph (d), or paragraph (e) has been completed within the 12 months before the adoption of the impact fee increase and expressly demonstrates the extraordinary circumstances necessitating the need to exceed the phase-in limitations.
- b. The local government jurisdiction has held not less than two publicly noticed workshops dedicated to the extraordinary circumstances necessitating the need to exceed the phase-in limitations set forth in paragraph (b), paragraph (c), paragraph (d), or paragraph (e).
- c. The impact fee increase ordinance is approved by at least a two-thirds vote of the governing body.

*Orange County has met all of the above conditions in approving Ordinance 2021-36.*

Other items in HB 337 include:



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Impact fee rates are calculated based on the application submittal date assuming your submittal is legally sufficient. In order for this application to be deemed legally sufficient and to be assessed the impact fee rates in effect prior to the scheduled transportation impact fee rate increase, the property which is the subject of the application must:

- I. have a future land use and zoning which are consistent with each other and which would allow the requested use of the property (without the need for a special exception, variance, or waiver), and,
- II. currently have the entitlements, including any required development permits, necessary to complete the development for which the building permit is requested.
- III. An increase in impact fees due to indexing does not apply to a permit.

This bill provides that impact fee credits are assignable and transferable at any time after establishment from one development or parcel to another within the same impact fee zone or impact fee district. The credits may be transferred to an adjoining impact fee zone or impact fee district within the same local jurisdiction, but only if the adjoining impact fee zone or impact fee district benefits from the improvement or contribution that generated the credit.

The concept of using credit accounts to 'prepay' a development program does not exist in Orange County, and we do not have any agreements that address credits as "prepayment" of density or intensity.