

ORDINANCE NO. 2016-\_\_\_\_

AN ORDINANCE OF THE COUNTY OF SARASOTA, FLORIDA, RELATING TO IMPACT FEE ADMINISTRATION, CREATING CHAPTER 70, ARTICLE I OF THE SARASOTA COUNTY CODE; PROVIDING FOR SECTION 70-1 RELATING TO SHORT TITLE; PROVIDING FOR SECTION 70-2 RELATING TO FINDINGS; PROVIDING FOR 70-3 RELATING TO INTENT; PROVIDING FOR SECTION 70-4 RELATING TO AUTHORITY; PROVIDING FOR SECTION 70-5 RELATING TO DEFINITIONS; PROVIDING FOR SECTION 70-6 RELATING TO APPLICABILITY; PROVIDING FOR SECTION 70-7 RELATING TO ESTABLISHMENT OF IMPACT FEE DISTRICTS; PROVIDING FOR SECTION 70-8 RELATING TO IMPOSITION OF IMPACT FEE AND SERVICE CHARGE; PROVIDING FOR SECTION 70-9 RELATING TO CALCULATION OF IMPACT FEE; PROVIDING FOR SECTION 70-10 RELATING TO MANAGEMENT OF IMPACT FEE AND SERVICE CHARGE FUNDS; PROVIDING FOR SECTION 70-11 RELATING TO REFUNDS; PROVIDING FOR SECTION 70-12 RELATING TO CREDITS; PROVIDING FOR SECTION 70-13 RELATING TO ANNUAL REVIEW; PROVIDING FOR SECTION 70-14 RELATING TO APPEALS AND INDEPENDENT IMPACT FEE STUDIES; PROVIDING FOR SECTION 70-15 RELATING TO EFFECT OF IMPACT FEE ORDINANCES ON ZONING AND LAND DEVELOPMENT REGULATIONS; PROVIDING FOR SECTION 70-16 RELATING TO IMPACT FEE ORDINANCES AS ADDITIONAL OR SUPPLEMENTAL REQUIREMENT; PROVIDING FOR SECTION 70-17 RELATING TO LIBERAL CONSTRUCTION; PROVIDING FOR SECTION 70-18 RELATING TO SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the Sarasota County's overall county growth management program includes the County's intent to adopt Impact Fees, as set forth in policies of the Capital Improvements Chapter of the County Comprehensive Plan; and

**WHEREAS**, the Sarasota County Commission (Board) has considered the recommendations of the Public Facilities Financing Advisory Board (PFFAB), Impact Fee Update report prepared by Duncan Associates dated April 2016, and comments from the public and other interested parties; and

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**WHEREAS**, the Board has provided the City of North Port, City of Sarasota, City of Venice, and the Town of Longboat Key with adequate notice and time for review, comment and public hearings regarding adoption of this Ordinance; and

**WHEREAS**, the Board has determined that it is advisable and in the public interest to adopt and implement this Ordinance.

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

**SECTION 1.** This Ordinance hereby creates Chapter 70, Article I of the Sarasota County Code.

**SECTION 2.** Section 70-1 of the Code is hereby created to read as follows:

#### **Section 70-1. - Short title.**

This Article shall be known and cited as the "Sarasota County Impact Fee Administration Ordinance."

**SECTION 3.** Section 70-2 of the Code is hereby created to read as follows:

#### **Section 70-2. - Findings.**

The Board of County Commissioners of Sarasota County, Florida (Board) hereby finds and declares that:

- (a) Sarasota County Government (County), a political subdivision of the State of Florida and a Home Rule Charter County, provides public facilities for libraries, roads, parks, potable water, wastewater, law enforcement, justice, general government, Fire, Emergency Medical Services (EMS), and mobility to residents and businesses in the County.
- (b) The County has experienced rapid population growth from the 1980's through the present, which strains the adequacy of existing sources of funds for public facilities to meet the demands created by growth and new development/redevelopment.
- (c) The Sarasota County Comprehensive Plan (Comprehensive Plan), as adopted and amended by the Board, and further census and population studies to date indicate that this growth will continue at a substantial rate, creating significant demands for public facilities to accommodate growth and new development/redevelopment at the level of service specified in Chapter 70 Articles II, V, IX, X, and XI.
- (d) Growth and development/redevelopment must be accompanied and supported by adequate public facilities in order to maintain the level of service specified in Chapter 70 Articles II, V, IX, X, and XI.

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- (e) The County provides public facilities for all residents of the County; both within the incorporated municipalities as well as the unincorporated areas of the County.
- (f) Impact Fee funds collected pursuant to Chapter 70 Articles II, V, IX, X, and XI shall be expended only on public facilities within each of the applicable Impact Fee districts. Such public facilities, operating as part of a County-wide system, have a "rational nexus" to and provide benefit to those properties on which fees are imposed pursuant to Chapter 70 Articles II, V, IX, X, and XI.
- (g) Impact Fees provide funds for public facilities that are needed to serve growth and new development/redevelopment at the existing level of service as used in the calculation of Impact Fees, which may be supplemented by other County funds as needed to achieve the desired level of service.
- (h) Impact Fees collected pursuant to Chapter 70 Articles II, V, IX, X, and XI provide for a proportionate share of the average public facility cost related to the public facilities needed for additional capacity to accommodate growth and new development/redevelopment.
- (i) The funding of Public Facilities through the use of Impact Fees established by Chapter 70 Articles II, V, IX, X, and XI shall be based, when applicable, upon the County and Municipal Capital Improvements Programs and be consistent therewith.
- (j) Impact Fees established by Chapter 70 Articles II, V, IX, X, and XI are one technique within an overall County growth management program as set forth in the Comprehensive Plan. The use of Impact Fees is supported in the Comprehensive Plan, and is specifically addressed in the Capital Improvements chapter's Objectives and Policies. The Board hereby finds that the Impact Fees imposed by Chapter 70 Articles II, V, IX, X, and XI, as amended from time to time, are consistent with and further the purposes of the Comprehensive Plan.
- (k) The Board has considered the matter of financing additional public facilities, the need for which is reasonably related to growth and new development/redevelopment. The Board hereby finds and declares that Impact Fees imposed upon growth and new development/redevelopment to finance public facility projects, the need for which is reasonably related to growth and new development/redevelopment, furthers the public health, safety and welfare of the County. Therefore, the Board deems it advisable to adopt Chapter 70 Articles I, II, V, IX, X, and XI as hereinafter set forth.

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- (l) The Board, sitting as the Sarasota County Land Development Regulation Commission, has reviewed Chapter 70 Articles I, II, V, IX, X, and XI and has found that they are consistent with the Comprehensive Plan.

**SECTION 4.** Section 70-3 of the Code is hereby created to read as follows:

### **Section 70-3. - Intent.**

The intent of this article is to provide for the administration of Chapter 70 Articles II, V, IX, X, and XI.

- (a) Chapter 70 Articles II, V, IX, X, and XI are intended to impose fees, payable at the time of Certificate of Occupancy issuance, in an amount based upon the average amount of new public facility demand attributable to growth and new development/redevelopment and the average cost of public facilities needed for the growth and new development/redevelopment at the appropriate level of service. These Articles are intended to allow growth and new development/redevelopment to share in their burdens. Growth and new development/redevelopment shall share in this burden by paying a pro rata share for the reasonably anticipated average costs of public facilities needed to accommodate the demand created by growth and new development/redevelopment at the prescribed levels of service as well as complying with other appropriate development approved conditions.
- (b) Chapter 70 Articles II, V, IX, X, and XI shall not be construed to authorize imposition of fees for public facility needs attributable to existing development, and are not intended to affect the use of property, the density of development, the design of a site or buildings or any other attribute of development which is governed by the County Land Development Regulations (LDR).
- (c) Chapter 70 Articles II, V, IX, X, and XI identify the analytical basis on which the calculation of Impact Fees are determined from the most recent and localized data.

**SECTION 5.** Section 70-4 of the Code is hereby created to read as follows:

### **Section 70-4. - Authority.**

The authority for establishment and implementation of Chapter 70 Articles II, V, IX, X, and XI is the Board exercising its County Charter home rule powers and its local authority, including police powers, pursuant to Article VIII, Section 1 of the Florida Constitution and F.S. ch. 163, pt. II (F.S. § 163.3161 et seq.), as amended. The aforementioned provisions authorize and require the County to: (1) provide and finance public facilities; (2) provide for the health, safety and general

welfare of the County; (3) coordinate the provision of adequate public facilities with land development; and (4) implement its Comprehensive Plan. Furthermore, the Community Planning Act, F.S. § 163.3161 et seq., encourages the use of innovative land development regulations, including Impact Fees. The provisions of Chapter 70 Articles II, V, IX, X, and XI shall not be construed to limit the scope of the power necessary to accomplish these purposes.

**SECTION 6.** Section 70-5 of the Code is hereby created to read as follows:

**Section 70-5. - Definitions.**

As applied in this Article I and Chapter 70 Articles II, V, IX, X, and XI, the following words and terms shall have the stated meanings, unless another meaning is clearly intended:

**Accessory Building or Structure** *shall mean a detached, subordinate building, the use of which is clearly indicated and related to the use of the principal building or use of the land and which is located on the same lot as the principal building or use.*

**Annual Budget** *shall mean the budget adopted annually by the governing body and which shall be adopted as part of the annual County budget.*

**Applicant** *shall mean the property owner, or duly designated agent of the property owner, of land on which a Certificate of Occupancy is requested and an Impact Fee is due pursuant to this Chapter, or shall mean the property owner, or duly designated agent of the property owner, of land identified in a credit agreement pursuant to Section 70-13 where such property owner or agent is responsible for the provision of Public Facility Project(s) as described in Section 70-13.*

**Board** *shall mean the Board of County Commissioners of Sarasota County, Florida.*

**Building Permit** *shall mean the permit required for new construction and additions pursuant to the County Building Code, as amended, Zoning Regulations, as amended, and the Land Development Regulations, as amended, and any comparable permit authorized by local ordinance of a Municipality.*

**Business Use Permit** *shall mean the last step for new commercial construction and allows for the business occupying the building or tenant space to open and conduct business. It is also required for any business moving into an existing commercial space or when there is a change of use to an existing business.*

**Capital Improvements Element (CIE)** *shall mean the capital improvements chapter of the County or applicable municipal Comprehensive Plan.*

**Capital Improvements Program (CIP)** shall mean the five-year schedule of capital improvements adopted by the County annually as part of the County budget process.

**Certificate of Occupancy (CO)** shall mean a document or action certifying compliance with County building, land development, or zoning regulations, issued by the County or equivalent Municipal document or action as applicable. The term shall be deemed to include final County approval, or equivalent Municipal approval, where no Certificate of Occupancy is required for the construction or occupation of a structure, or use of land. The term "Certificate of Occupancy," as used in this article, shall be deemed to include, but not be limited to business use permit issuance, Mobile Home installation permit, or any comparable permit as authorized by the County or Municipality as applicable.

**City Council/Commission** shall mean the legislative body of a municipality in Sarasota County.

**Collecting Agency** shall mean the County or municipal department or official authorized to issue Certificates of Occupancy.

**Commercial Uses** shall mean those businesses, institutional, office, and/or professional activities which provide products and services to individuals, businesses, or groups and which include those uses specified in the ITE Trip Generation Manual under Land Use Code Series 300, 400, 500, 600, 700, 800 and 900.

**Community Retail** shall mean retail uses that are between 10,000 square feet and 100,000 square feet in size that are not otherwise specifically included in the applicable Impact Fee Schedule.

**Comprehensive Plan** shall mean the Plan adopted by the Board of County Commissioners pursuant to Ordinance No. 89-18, as amended, as the Sarasota County Comprehensive Plan as required by F.S. ch. 163, pt. II (F.S. § 163.3161 et seq.), or the Comprehensive Plan adopted by the City Council of a municipality.

**County** shall mean the County of Sarasota, Florida, a geographical area and a political subdivision of the State of Florida.

**Demand** shall mean the average increment of public facilities that a principal use would consume.

**Development** shall mean the execution of any building activity or any material change in the use of a structure or property that requires issuance of a building permit or tenant occupancy permit.

**Dwelling Unit** shall mean a room or rooms connected together, constituting a separate, independent housekeeping entity for owner occupancy or rental or lease on a daily, weekly, monthly, or longer basis, and physically separated from any other rooms or Dwelling Units which may be in the same structure and

*containing sleeping and sanitary facilities and one kitchen. The term "Dwelling Unit," as used in this article, shall be deemed to include Mobile Home dwellings.*

**Equivalent Dwelling Unit** *shall mean the quantum of Demand associated with a typical single-family detached dwelling unit in Sarasota County.*

**Fiscal Year** *shall mean that period commencing October 1 of each year and continuing through the next succeeding September 30, or such other period as may be prescribed by law as the fiscal year for the County.*

**General Retail/Commercial Uses** *shall mean those business activities and nonresidential uses that are not classified in any other nonresidential land use category included in the Impact Fee schedule.*

**Governing Body** *shall mean and refer to the Board of County Commissioners of Sarasota County or the City Council or City Commission of a municipality.*

**Governmental Use** *shall mean and refer to the use of property exclusively for public purposed by, and which property is owned or leased by, any department or branch of any local government unit, state government or the federal government.*

**Gross Floor Area (GFA)** *shall mean the sum (in square feet) of the area of each floor level, including cellars, basements, mezzanines, penthouses, corridors, lobbies, stores, and offices, that are within the principal outside faces of exterior walls, not including architectural setbacks or projections. Included are all areas that have floor surfaces with clear standing head room (six feet six inches, minimum) regardless of their use. If a ground level area, or part thereof, within or adjacent to the principal outside faces of the exterior walls is not enclosed and is determined to be a part of the Principal Use, this GFA is considered part of the overall square footage of the building. However, unroofed areas and unenclosed roofed-over spaces which are considered accessory and do not create a demand to the Principal Use should be excluded from the area calculations. For purposes of this Article, the GFA of any parking garages within the building shall not be included within the GFA of the entire building.*

**Impact Fee** *shall mean a monetary exaction imposed at the time of issuance of a Certificate of Occupancy on a pro rata basis in accordance with the average Demand for public facilities created by growth and new development/redevelopment, and this term shall include the term Mobility Fee as related to Chapter 70 Article XII.*

**Industrial Use** *shall mean those activities which are predominantly engaged in the assembly, finishing, processing, packaging and/or storage of products and which include those uses specified in the ITE Trip Generation Manual under Land Use Code Series 000 and 100.*

**ITE Trip Generation Manual** shall mean and refer to the latest edition of the report entitled "Trip Generation" produced by the Institute of Transportation Engineers, and any official updates hereto, as approved by Public Works.

**Land Development Regulations** shall mean County Ordinance No. 97-051, as amended and as codified in Chapter 74 of the Sarasota County Code.

**Level of Service** shall mean the standard sought to be provided by the County as specified in the County Comprehensive Plan or as otherwise lawfully adopted by the Board of County Commissioners.

**Living Area** shall mean the sum of the area (in square feet) of each floor of the Dwelling Unit, measured from the exterior surface of the exterior walls or walls adjoining public spaces such as apartment hallways, or the centerline of common walls shared with other Dwelling Units. This square footage does not include garages or unenclosed porches.

**Mixed-use** shall mean development within either a multi-story building with at least two different uses such as office, retail or residential on different floors, or development within a Village Center per the 2050 Plan, or a Special Area Plan adopted in the Comprehensive Plan that requires Form Based Code Design; municipalities shall have the option of defining Mixed-Use within their incorporated boundaries subject to an approved inter-local agreement with Sarasota County.

**Mobile Home** shall mean a Dwelling Unit with all of the following characteristics: (1) designed for long term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems; (2) designed for transportation after fabrication on streets or highways on its own wheels; and (3) arriving at the site where it is to be occupied as a dwelling complete, including major appliances, and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connection to utilities and the like. A travel trailer or Recreational Vehicle (RV) is not considered a Mobile Home.

**Multifamily Dwelling Units** shall mean a single structure containing two or more Dwelling Units.

**Municipality** shall mean one of the following: the City of Sarasota, the City of Venice, the City of North Port, or the Town of Longboat Key.

**Neighborhood Retail** shall mean any retail, banking or restaurant uses not otherwise defined in the Mobility Fee schedule that are less than 10,000 square feet in size and do not include a vehicular drive-thru lane, window or service.

**Office Use** shall mean activities primarily involving the provision of professional or skilled services, including but not limited to legal, medical, real estate, financial, personal grooming and personal fitness services.



**Owner** shall mean the Person holding legal title to the real property upon which Principal Uses are to be built.

**Person** shall mean an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

**Principal Use** shall mean the carrying out of any building activity or the making of any material change in the use of a structure or land that requires the issuance of a Certificate of Occupancy and which generates a Demand for public facilities over and above the existing use of the structure or land.

**Project Costs** shall mean those funds needed for land and structure acquisitions, legal services, planning services, architectural services, engineering services, design services, administrative services, financing, construction, equipping, and development of a Public Facility Project.

**Property Appraiser** shall mean the Sarasota County Property Appraiser.

**Public Facility Project** shall mean and include the construction or the capacity adding expansion of public facilities, as more particularly defined in Articles II, V, IX, and XI, including land and structure acquisitions, professional services, and construction costs.

**Public/Institutional Use** shall mean public or quasi-public nonresidential land uses such as hospitals, nursing homes, churches, schools, and day care centers.

**Regional Retail** shall mean retail uses that are greater than 100,000 square feet in size that are not otherwise specifically included in the Mobility Fee Schedule.

**Residential Use** shall mean a Dwelling Unit or Dwelling Units and shall include those uses specified in the ITE Trip Generation Manual under the Land Use Code Series 200.

**Service Charge** shall mean a charge, in addition to the applicable Impact Fee amount, for expenses associated with the establishment, amendment and updates of the Impact Fee ordinance and for expenses associated with the Certificate of Occupancy and financial administration of the Impact Fee ordinances.

**Single-Family Dwelling Unit** shall mean a standalone structure containing only one Dwelling Unit detached from all others.

**Tax Collector** shall mean the Sarasota County Tax Collector.

**Tax Roll** shall mean the ad valorem tax assessment roll maintained by the Property Appraiser for the purpose of the levy and the collection of ad valorem taxes.

**Tax Year** shall mean that period commencing January 1 of each year and continuing through the next succeeding December 31.

**Un-interrupted Issuance Process** shall mean that process where a permit application submitted to and accepted by the County or Municipality proceeds through to issuance without invalidation, suspension, or abandonment, and any permit application that exceeds 60 months from date of permit application submittal shall be deemed invalid, suspended, or abandoned for purposes of Impact Fee calculation.

**Zoning Regulations** shall mean County Ordinance No. 2003-052, as amended and as codified as Appendix A to the Sarasota County Code.

**SECTION 7.** Section 70-6 of the Code is hereby created to read as follows:

**Section 70-6. - Applicability.**

Chapter 70 Articles II, V, IX, X, and XI shall be applied as follows:

- (a) Said articles are applicable where development activity will generate an increase in the intensity of a use: (1) due to an increase in Dwelling Units or Gross Floor Area for Residential Uses; (2) due to an increase in Mobile Home Park spaces; (3) due to an increase in Gross Floor Area for Non-residential Uses; or (4) due to an increase in the number of rentable rooms within a hotel/motel.
- (b) The amount of the Impact Fee shall be based solely upon the increase in the intensity of use or Gross Floor Area of Non-residential Uses or square footage of a Dwelling Unit or an increase in the number of Dwelling Units or Mobile Home Park spaces.
- (c) Where this article becomes applicable due to an increase in Dwelling Units, the amount of the Impact Fee shall be based solely upon the increase in the size and number of the new Dwelling Units.
- (d) Notwithstanding (a) through (c) above, this article shall not be applicable to Certificates of Occupancy otherwise necessary for:
  - (1) Room additions, remodeling, rehabilitation or other improvements to an existing structure, provided there is no increase in Dwelling Units for Residential Uses; or
  - (2) Rebuilding of a damaged or destroyed structure, whether voluntary or involuntary, provided there is no increase in Dwelling Units for Residential Uses; or
  - (3) A change in occupancy without any increase in the number of Dwelling Units for Residential Uses; or
  - (4) Governmental Uses which are exempt from Chapter 70 Articles II, V, IX, X, and XI; or

- (5) Charter Schools pursuant to F.S. ch. 1002, pt. III [F.S. § 1002.33 (18)(d)] which are exempt from Chapter 70 Articles II, V, IX, X, and XI.

**SECTION 8.** Section 70-7 of the Code is hereby created to read as follows:

**Section 70-7. - Establishment of Impact Fee Districts.**

In furtherance of the implementation of Chapter 70 Articles II, V, IX, X, and XI, the Board shall establish the Impact Fee District(s) for each Impact Fee ordinance that includes the unincorporated area of the County and shall specify if the Impact Fee District includes the municipalities within Sarasota County.

**SECTION 9.** Section 70-1 of the Code is hereby created to read as follows:

**Section 70-8. - Imposition of Impact Fee and Service Charge.**

The Impact Fees and Service Charges called for by Chapter 70 Articles II, V, IX, X, and XI shall be imposed as follows:

- (a) Unincorporated area. No Certificate of Occupancy or Business Use Permit shall be issued in the unincorporated area of the County unless the Applicant therefor has paid the applicable Impact Fee and Service Charge imposed by Chapter 70 Articles II, V, IX, X, and XI. Any Certificate of Occupancy issued in the unincorporated area without payment by the Applicant and collection by the County of the applicable Impact Fee and Service Charge as required by Chapter 70 Articles II, V, IX, X, and XI shall be null and void.
- (b) Municipalities within the County. No Certificate of Occupancy or Business Use Permit shall be issued within any municipality in the County unless the Applicant therefor has paid the applicable Impact Fee and Service Charge imposed by Chapter 70 Articles II, V, IX, X, and XI. Any Certificate of Occupancy issued within any Municipality without payment by the Applicant and collection by the municipality of the applicable Impact Fee and Service Charge as required by Chapter 70 Articles II, V, IX, X, and XI shall be null and void.
- (c) A Service Charge shall be established by resolution of the Board as part of the annual review provided for in Section 70-14 of Article I or at such other times as deemed necessary based upon information submitted by the Impact Fee Administrator. The Service Charge is in addition to and shall be paid separately from the Impact Fee, but shall be payable at the time of Certificate of Occupancy issuance and shall be for the sole purpose of defraying expenses for the establishment, amendment and annual updates of the impact fee ordinance and methodology.

**SECTION 10.** Section 70-9 of the Code is hereby created to read as follows:

**Section 70-9. – Calculation of Impact Fee.**

Each article of Chapter 70 Articles II, V, IX, X, and XI shall establish a unit of measure and schedule of Impact Fee amounts, and the Impact Fee Administrator shall calculate Impact Fees by:

- (a) Verifying the applicable articles unit of measure; and
- (b) Verifying the applicable articles Impact Fee amount from the applicable articles schedule; and
- (c) Multiplying the unit of measure by the applicable Impact Fee amount.

**SECTION 11.** Section 70-10 of the Code is hereby created to read as follows:

**Section 70-10. – Management of Impact Fee and Service Charge funds.**

The Impact Fee Administrator shall serve as the Sarasota County Administrator designated official responsible for administration, implementation and interpretation of all Impact Fee ordinances, policies and manuals.

Funds collected pursuant to Chapter 70 Articles II, V, IX, X, and XI shall be processed as follows:

- (a) Collection of Impact Fee and Service Charge. Impact Fees and Service Charges calculated and imposed pursuant to this article and Chapter 70 Articles II, V, IX, X, and XI shall be collected by the applicable Collecting Agency upon issuance of a Certificate of Occupancy in the unincorporated County and in any Municipality participating in the Impact Fee program.
- (b) Transfer of funds to County Finance Department. Impact Fees shall be transferred from the Collecting Agency to the County Finance Department for placement in the appropriate trust fund account which has been established pursuant to subsection (c) of this section. The Service Charge shall be placed in the account and disbursed as set forth in Section 70-10(e).
- (c) Trust funds established.
  - (1) There is hereby directed to be established a separate Impact Fee trust fund account for each Impact Fee ordinance pursuant to Chapter 70 Articles II, V, IX, X, and XI.
  - (2) Funds withdrawn from this account must be used solely in accordance with the provisions of subsection (d) of this section. The disbursement of such funds shall be in accordance with the Capital Improvement Program of the County and/or applicable Municipal Comprehensive Plans and as directed by the Board of County Commissioners.

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- (3) Any funds on deposit not immediately necessary for expenditure shall be invested in interest-bearing accounts. All interest earned shall be retained in the applicable Impact Fee trust fund account.
- (d) Use of funds collected.
  - (1) The funds collected by reason of Chapter 70 Articles II, V, IX, X, and XI shall be used exclusively for the purpose of undertaking Public Facility Projects or for financing directly, or as a pledge against bonds, revenue certificates and other obligations of indebtedness, the Project Costs of Public Facility Projects.
  - (2) All Impact Fee funds shall be utilized for Public Facility Projects within the applicable Impact Fee District.
  - (3) Where there are multiple Impact Fee Districts established within an Impact Fee Article, Impact Fee funds shall not be used in adjacent areas unless the Board adopts the following findings of fact, supported by competent evidence and data concerning the impact of new development and the need for and capacity of the Public Facility Project being built in the adjacent area:
    - i. "Adjacent area" for purposes of this subsection shall mean and include only those Impact Fee Districts which abut the boundaries of the Impact Fee District from which the Impact Fee has been collected. "Adjacent area" for purposes of this subsection shall not include any area outside of the corporate boundaries of Sarasota County.
    - ii. The need for the Public Facility Project in the adjacent area is reasonably related to the needs created by new development in both Impact Fee Districts from which funds will be used;
    - iii. The Public Facility Project in the adjacent area will substantially benefit new development in the Impact Fee District from which Impact Fees are to be transferred;
    - iv. At least one-third of the minimum service area for the Public Facility Project to be constructed in the adjacent area falls within the Impact Fee District from which Impact Fees are to be transferred and the Public Facility Project is designed to serve residents of both Impact Fee Districts from which Impact Fees will be used; and
    - v. The amount of Impact Fees transferred for expenditure in an adjacent area shall not exceed 50 percent of the total Public Facility Project Costs
- (e) Service Charge funds collected shall be distributed to the Collecting Agency for Certificate of Occupancy administration, to the County for financial administration, and to the County for the establishment, amendment and

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updates of the Impact Fee ordinances, in percentages to be determined by resolution of the Board.

**SECTION 12.** Section 70-11 of the Code is hereby created to read as follows:

### **Section 70-11. – Refunds.**

- (a) Upon application of the current property owner, the County shall refund the portions of any Impact Fee which have been on deposit for more than ten (10) years and which remain unexpended, unless the County makes findings:
  - (1) To identify the specific Public Facility Projects listed in the first two years of the current Capital Improvements Program for which the Impact Fee will be expended, and the year in which the Public Facility Projects will be constructed; and
  - (2) To demonstrate a "rational nexus" between the Impact Fee and the Public Facility Projects with respect to the applicable Principal Use.
- (b) The current owner of the property must petition the County for the refund within one year following the ten-year period or extension thereof granted pursuant to subsection (a) of this section. The time for filing a refund petition shall run from the date on which the Impact Fee was paid.
- (c) The petition must contain the following information:
  - (1) A notarized sworn statement that the petitioner is the current owner of the property;
  - (2) A copy of the dated receipt issued for payment of the Impact Fee;
  - (3) A certified copy of the latest recorded deed for the property; and
  - (4) A copy of the most recent ad valorem tax bill for the property.
- (d) Within one month from the date of receipt of a petition for refund, the County shall advise the petitioner of the status of the refund request. If the petition for refund meets all of the requirements of this section, the County shall issue the refund within three months from the date of receipt of the petition for refund.

**SECTION 13.** Section 70-12 of the Code is hereby created to read as follows:

### **Section 70-12. – Credits.**

- (a) Pursuant to all requirements of this Section, any Applicant subject to an Impact Fee pursuant to this article who elects to undertake all or a portion of a Public Facility Project or who escrows money with the Governing Body for a Public Facility Project shall be eligible for a credit for such contribution

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against the Impact Fee otherwise due. The Applicant must, prior to the Applicant's construction, dedication or escrow, submit a petition to the Impact Fee Administrator for a determination of credit eligibility.

- (b) A credit may be granted and the amount of the credit may be determined by the Impact Fee Administrator if the proposed Public Facility Project is in the five-year schedule of improvements contained in the Capital Improvements Program. The amount of the credit shall be based upon certified cost estimates submitted by the Applicant and approved by the Impact Fee Administrator. In no event shall the credit exceed the amount of the otherwise applicable Impact Fee.
- (c) The Impact Fee Administrator shall approve, deny, or approve with conditions the petition and establish the amount of credit within 60 days following the filing of a petition.
- (d) If a petition is approved for credit by the Impact Fee Administrator, the Applicant and the Governing Body shall enter into a credit agreement which shall provide for the following, including but not limited to:
  - (1) The timing of the actions to be taken by the Applicant and the obligations and responsibilities of the Applicant, including but not limited to the land acquisition and construction standards and requirements to be complied with;
  - (2) The obligations and responsibilities of the Governing Body, including but not limited to inspection of the project; and
  - (3) The amount of the credit or mechanism to be used to determine the value of dedicated property qualifying for credit.
- (e) Where the Applicant eligible for credit is not the property owner or agent of the property owner requesting a Certificate of Occupancy, such Applicant shall agree to provide recorded notice to subsequent owners of the property regarding the credit, if any, available to purchasers and shall agree to indemnify the County for any and all costs and liabilities arising from any claims related to the Impact Fee credit. If any credit available at the time of issuance of a Certificate of Occupancy is less than the Impact Fee otherwise due, the Applicant shall pay the Impact Fee less the credit at the time of Certificate of Occupancy issuance.

**SECTION 14.** Section 70-13 of the Code is hereby created to read as follows:

### **Section 70-13. – Annual review.**

- (a) Prior to February 1 of each year, the Impact Fee Administrator shall prepare a report to the Board on the subject of Impact Fees collected pursuant to Chapter 70 Articles II, V, IX, X, and XI, which report shall incorporate:

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- (1) Recommendations on amendments, if appropriate, to said articles;
  - (2) Proposed changes to the Impact Fee calculation methodology;
  - (3) Proposed changes to the Impact Fee calculation variables;
  - (4) Proposed changes to Impact Fee rates or schedules.
- (b) The Impact Fee Administrator, in preparing the annual report, shall obtain and review the following information:
- (1) A statement from the County Finance Department, summarizing Impact Fees collected and disbursed during the preceding fiscal year by facility;
  - (2) A statement from the County Department or Constitutional Officer associated with each respective Impact Fee system summarizing all Public Facility Projects initiated and completed during the preceding fiscal year by the County;
  - (3) A statement from the Planning and Development Services Department summarizing the Certificate of Occupancy issued, by type of Principal Use, during the preceding fiscal year;
  - (4) A statement from the Planning and Development Services Department that the Public Facility Projects undertaken with Impact Fee funds are consistent with the adopted Capital Improvement Program (CIP) and Comprehensive Plan.
- (c) Based on the annual report and such other factors as the Board deems relevant and appropriate, the Board may amend Chapter 70 Articles I, II, V, IX, X, and XI.
- (d) Nothing herein precludes the Board or limits its discretion to amend Chapter 70 Articles I, II, V, IX, X, and XI at such other times as may be deemed necessary.

**SECTION 15.** Section 70-14 of the Code is hereby created to read as follows:

**Section 70-14. – Appeals and Independent Impact Fee Studies.**

- (a) The Impact Fee Administrator is hereby authorized to develop an administrative procedures manual for impact fees addressing, among other things, standards and appeal procedures for independent impact fee studies. The administrative procedures manual shall be presented to the Board for approval by resolution prior to implementation of the procedures outlined in the manual. Notwithstanding the foregoing, any independent impact fee studies submitted prior to Board approval of such administrative procedures manual shall be reviewed and considered by the Impact Fee Administrator using generally accepted industry standards.



- (b) Any applicant (1) who believes that the base information used to calculate the impact fee for the applicant's development is incorrect, or (2) who has a unique or restrictive land use that can be verified through the County's building permit or business use permit process and believes that this results in a different value than that used to calculate the impact fee for the applicant's development, or (3) whose land use is not listed in the impact fee schedule, or believes the use is incorrectly assigned in the impact fee schedule, shall have the option to provide an independent impact fee study prepared in accordance with the administrative procedures manual provided for under Chapter 70 Article I Section 70-14. The Impact Fee Administrator is hereby authorized to reject any independent impact fee study not meeting such standards. The applicant shall provide notice of its intent to provide an independent impact fee study not later than sixty days following issuance of the building permit or business use permit. Upon submission of the independent impact fee study, the applicant shall pay a review fee to the County in an amount to be established by resolution, which shall not exceed the actual cost of reviewing the independent impact fee study. If the independent impact fee study cannot be completed and a final determination of sufficiency made by the Impact Fee Administrator, including any appeals, prior to issuance of the certificate of occupancy for the development, the applicant shall pay the applicable impact fee in the impact fee schedule. However, if the impact fee study is subsequently accepted by the County Administrator following issuance of the certificate of occupancy or business use permit, a refund shall be made to the applicant to the extent the impact fee paid was higher than the impact fee determined in the independent impact fee study.
- (c) After determination of: (i) the amount of the Impact Fee, which occurs at the time of issuance of a building permit as defined in this Article or at the time of issuance of a determination on an independent impact fee study prepared pursuant to subsection (a) above , whichever occurs later in time, (ii) the amount of the credit, which occurs at the time of issuance of a determination on an independent impact fee study prepared pursuant to this appeal process, or (iii) the amount of the refund due, which occurs at the time of issuance of a determination on an independent impact fee study under Chapter 70 Article I Section 70-14, an Applicant for a building permit or a property owner may appeal in writing such determination to the Impact Fee Administrator. The Impact Fee Administrator shall have 15 business days to respond in writing to the appeal request. Should the appeal request be denied, the Applicant shall have the right to appeal the decision of the Impact Fee Administrator to the Board within 30 days following the determination of the appeal request by the Impact Fee Administrator. The Notice of Appeal shall be filed with the Clerk of the

Board with a copy to the County Impact Fee Administrator. The Impact Fee Administrator shall prepare a written response justifying the decision to deny the appeal request and cite applicable policies and rationale for the decision. The filing of an appeal shall stay the issuance of a building permit unless a bond, letter of credit, or other surety has been filed with the County in an amount equal to the impact fee assessed and applicable surcharge. The Board shall base its decision on any appeal on the applicable standards and criteria established in this Article and the evidence presented at a properly advertised public hearing. The hearing shall be held within 60 days of receipt of the appeal request. The Board may uphold or revoke, in whole or in part, the determination being appealed and to that end shall have the powers of the administrative official from whom the appeal is taken.

- (d) The Impact Fee Administrator is authorized, without a hearing to the Board, to take such actions as are necessary to correct errors in the calculation and/or collection of Impact Fees which are the subject of an appeal timely filed in accordance with this Article I.

**SECTION 16.** Section 70-15 of the Code is hereby created to read as follows:

**Section 70-15. – Effect of Impact Fee ordinances on zoning and land development regulations.**

Chapter 70 Articles I, II, V, IX, X, and XI shall not affect, in any manner, the permissible use of the property, density of development, design and improvement standards and requirements, or any other aspect of the development of land or provision of public improvements subject to the land development regulations or other regulations of the County or Municipalities, which shall be operative and remain in full force and effect without limitation with respect to all such development.

**SECTION 17.** Section 70-16 of the Code is hereby created to read as follows:

**Section 70-16. – Impact Fee ordinances as additional or supplemental requirement.**

The payment of Impact Fees is additional and supplemental to, and not in substitution of, any other requirements imposed by the County or Municipalities on the development of a Principal Use or the issuance of a Certificate of Occupancy. In no event shall a property owner be obligated to pay for Public Facility Projects in an amount exceeding the amount calculated pursuant to Chapter 70 Articles I, II, V, IX, X, and XI provided, however, that a property owner may be required to pay, pursuant to County or municipal ordinances, regulations or policies, for other public facilities in addition to the Impact Fee for Public Facility Projects as specified herein. Nothing in this article shall be construed as a

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guarantee of adequate public facilities at the time of development of any particular property.

**SECTION 18.** Section 70-17 of the Code is hereby created to read as follows:

**Section 70-17. – Liberal construction.**

The provisions of Chapter 70 Articles I, II, V, IX, X, and XI shall be liberally construed to effectively carry out its purposes in the interest of public health, safety, welfare and convenience.

**SECTION 19.** Section 70-18 of the Code is hereby created to read as follows:

**Section 70-18. – Severability.**

Should any sentence, clause, part or provision of Chapter 70 Articles I, II, V, IX, X, and XI be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of such Article as a whole, or any part thereof other than the part declared to be invalid.

**SECTION 20. Effective date.** This Ordinance shall take effect immediately upon filing with the Office of the Secretary of the State of Florida.

**PASSED AND DULY ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA this \_\_\_ day of \_\_\_\_\_, 2016.**

BOARD OF COUNTY COMMISSIONERS OF  
SARASOTA COUNTY, FLORIDA

By: \_\_\_\_\_  
Chairman

ATTEST:

KAREN E. RUSHING, Clerk of  
the Circuit Court and Ex-  
Officio Clerk of The Board  
of County Commissioners of  
Sarasota County, Florida

By: \_\_\_\_\_  
Deputy Clerk