



ORDINANCE NO. 24-10

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF DUNDEE, FLORIDA, RELATING TO TOWN OF DUNDEE TRANSPORTATION IMPACT FEES; UPDATING AND AMENDING THE CODE OF ORDINANCES OF THE TOWN OF DUNDEE, FLORIDA, AND THE TOWN OF DUNDEE LAND DEVELOPMENT CODE IN THE FORM ATTACHED HERETO AS EXHIBIT “A”; BY ADOPTING DEFINED TERMINOLOGY USED IN THE FLORIDA IMPACT FEE ACT AND ITS TRIP GENERATION MANUAL AND UPDATING DEFINED TERMINOLOGY CONSISTENT WITH APPLICABLE LAW; MAKING LEGISLATIVE FINDINGS; PROVIDING FOR AUTHORITY; PROVIDING FOR RATIFICATION AND ADOPTION; REPEALING CONFLICTING ORDINANCES; PROVIDING FOR CODIFICATION; PROVIDING FOR THE ADMINISTRATIVE CORRECTION OF SCRIVENER’S ERRORS; PROVIDING BUSINESS IMPACT ESTIMATE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Dundee (the “Town”) is a Florida municipal corporation vested with home rule authority pursuant to the Municipal Home Rule Powers Act (F.S. Chapter 166) and Article VIII, §2 of the Florida Constitution; and

WHEREAS, pursuant to Section 2(b), Article VIII of the Florida Constitution and Chapter 166, Florida Statutes, the Town is vested with governmental, corporate and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services, including the general exercise of any power for municipal purposes; and

WHEREAS, as provided in section 166.021(3), Florida Statutes, the governing body of each municipality in the state has the power to enact legislation concerning any subject matter upon which the state legislature may act, except when expressly prohibited

by law; and

WHEREAS, Sections 163.3161 through 163.3215, Florida Statutes, the Local Government Comprehensive Planning and Land Development Regulation Act, empowers and mandates the Town of Dundee, Florida, to plan for future development and growth and to adopt and amend comprehensive plans, or elements, or portions thereof, to guide the future growth and development of the Town; and

WHEREAS, on January 10, 2006, the Town Council of the Town of Dundee adopted Ordinance No. 05-101, as amended by Ordinances No. 14-16 and Ordinance No. 17-06, establishing and implementing the Town of Dundee Municipal Road Impact Fee(s) on and/or for all new development within the corporate limits of the Town of Dundee, Florida; and

WHEREAS, on September 12, 2023, the Town Commission of the Town of Dundee adopted Resolution No. 23-22 ratifying the adoption of the Town of Dundee Townwide Traffic Analysis and Adequacy Determination Technical Report, June 2023, and approving the Town of Dundee Townwide Traffic Analysis and Adequacy Determination Technical Report, June 2023, as the Town of Dundee Concurrency Management System for Transportation; and

WHEREAS, ESRP Corporation (“ESRP”) has, on behalf of the Town of Dundee, Florida, performed a comprehensive study of the Town of Dundee Transportation Impact Fee(s) (*f/k/a* municipal road impact fee), entitled “Town of Dundee Transportation Impact Fee Study & Fee Schedule Update Technical Report (Final Draft), September 2024” (the “TIF Study”), a copy of which is attached hereto and incorporated herein as **Composite Exhibit “B”** to this Ordinance, which has provided a thorough fiscal analysis of the Town’s capital requirements, transportation facilities and infrastructure, and the actual revenues generated and expected revenues generated from impact fees arising out of new growth and development within the corporate limits of the Town of Dundee, Florida; and

WHEREAS, based on the TIF Study (see **Exhibit “B”**), and the comments received from members of the public during open and properly advertised workshops and meetings, the Town Commission finds it necessary to revise its current rate schedules for Transportation Impact Fee(s) to adjust and increase the effective rates that are equitable, provide for reasonable recovery without exceeding the current cost of expansion related to capital improvements associated with providing municipal services to new users, and take into consideration reductions from revenues derived from other sources that are anticipated to pay for a portion of the expansion related infrastructure and capital improvements; and

WHEREAS, the Town Commission of the Town of Dundee, Florida (the “Town Commission”) specifically finds that the Transportation Impact Fee(s) established by the TIF Study (see **Exhibit “B”**) and provided for herein are based on the most recent and localized data as contained within the TIF Study and that any administrative charges for

the collection of impact fees are limited to the Town's actual costs; and

WHEREAS, the Town Commission has received, reviewed, and hereby adopts the TIF Study which is attached hereto as **Composite Exhibit "B"** and incorporated herein by reference; and

WHEREAS, notwithstanding the foregoing, the Town Commission finds that the TIF Study is a qualifying *demonstrated need study* that would justify, under the Florida Impact Fee Act and Chapter 2021-63, Laws of Florida, a present need to amend and increase the Transportation Impact Fee(s) charged to new users of the Town's services, transportation facilities, and thoroughfare network, without the need for phase-in limitations, due to the extraordinary circumstances faced by the Town; and

WHEREAS, in strict accordance with §163.31801, Florida Statutes (2024), and applicable Florida law, the Town Commission has held two (2) publicly noticed Workshop meetings prior to the adoption of this Ordinance dedicated to discussing the *extraordinary circumstances* necessitating the need to increase the Transportation Impact Fee(s) established by the TIF Study and adopted herein; and

WHEREAS, the Town Commission finds it prudent to provide at least 90 days of notice to the development community prior to the effective date of the new Transportation Impact Fee(s) established by the TIF Study and adopted herein, which the Town Commission sets at January 1, 2025; and

WHEREAS, the Town Commission of the Town of Dundee finds that all public hearing, notice, and workshop requirements imposed by general law, if any, for the consideration and adoption of this Ordinance have been met; and

WHEREAS, the Town Commission of the Town of Dundee, Florida, finds that the approval and adoption of this Ordinance No. 24-10 is intended to enhance the present advantages that exist within the corporate limits of the Town of Dundee, Florida; and

WHEREAS, in the exercise of its authority, the Town Commission of the Town of Dundee, Florida, has determined it is in the best interests of the health, safety and welfare of the citizens and residents of the Town of Dundee, Florida, and consistent and in accordance with applicable Florida law to amend Chapter 50, Article II, of the Code of Ordinances of the Town of Dundee relating to the establishment and implementation of the Town of Dundee Transportation Impact Fee(s); and

WHEREAS, the Town Commission of the Town of Dundee finds that the proposed Town of Dundee Transportation Impact Fee(s) promote the public health, safety, and general welfare of the community and that it is expedient to amend and revise provisions of the Code of Ordinances and Land Development Code of the Town of Dundee relating to the same; and this Ordinance No. 24-10 is intended to promote, protect, and improve the public health, safety, and general welfare of the citizens and residents of the Town of Dundee, Florida.

NOW, THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE TOWN OF DUNDEE, FLORIDA, THAT:

Section 1. Incorporation of Factual Recitals.

The above-referenced factual recitals (WHEREAS clauses) and referenced exhibits are incorporated herein as true and correct statements which form a factual and material basis for the adoption of this Ordinance, and the Town Commission of the Town of Dundee, Florida, hereby adopts the above-referenced factual recitals as the legislative findings supporting the adoption of this Ordinance.

Section 2. Authority.

This Ordinance is enacted pursuant to Chapter 163 of the Florida Statutes and the Town’s home rule authority pursuant to the Municipal Home Rule Powers Act (F.S. Chapter 166) and Article VIII, §2 of the Florida Constitution.

Section 3. Ratification and Adoption.

The Town Commission of the Town of Dundee, Florida, hereby ratifies, approves, and adopts the *Town of Dundee Transportation Impact Fee Study & Fee Schedule Update Technical Report (Final Draft), September 2024* (the “TIF Study”), a copy of which is attached hereto as **Composite Exhibit “B”** and incorporated herein by reference. The schedule of new Transportation Impact Fee(s) (TIF) established by the TIF Study, as more specifically set forth in **Exhibit “A”** which is attached to this Ordinance and incorporated herein by reference, and adopted by this Ordinance shall be charged and collected by the Town of Dundee at the time of building permit issuance.

Section 4. Amendment.

The *Code of Ordinances of the Town of Dundee, Florida*, is hereby amended as shown in **Exhibit "A"**, which is attached hereto and incorporated by reference as if fully set forth herein as a part of this Ordinance (deleted provisions are shown in ~~striketrough~~ format, and new provisions are shown in underlined format).

Section 5. Conflicts.

All other miscellaneous rates, fees, and charges including, but not limited to, water and wastewater connection fees, stormwater fees, and other municipal services fees are not modified, amended or repealed by this Ordinance and shall remain in full force and effect. Subject to the foregoing, all ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict or inconsistent with provisions of this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect; provided however, that nothing herein shall be interpreted so as to repeal any existing ordinance or resolution relating to means of securing compliance with the *Town of Dundee 2030 Comprehensive Plan*, unless such repeal is explicitly set forth herein.

Section 6. Severability.

The provisions of this Ordinance are severable. If any section, subsection, sentence, clause, phrase of this Ordinance, or the application thereof shall be held invalid, unenforceable, or unconstitutional by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby. The Town Commission of the Town of Dundee hereby declares that it would have passed this Ordinance, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared invalid, unenforceable, or unconstitutional, or unenforceable. If any word, sentence, clause, phrase, or provision of this Ordinance for any reason is declared by any court of competent jurisdiction to be invalid, unenforceable, or unconstitutional, then all remaining provisions and portions of this Ordinance shall remain in full force and effect. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town of Dundee, Florida, by and through its Town Commission, hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 7. Administrative Correction of Scrivener's Errors.

It is the intention of the Town Commission that sections of this Ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to, "section", or such other appropriate word or phrase in order to accomplish such intentions; and regardless of whether such inclusion in the Code of Ordinances of the Town of Dundee is accomplished, sections of this Ordinance may be re-numbered or re-lettered and the correction of typographical and/or scrivener's errors which do not affect the intent may be authorized by the Town Manager or designee, without need of public hearing, by filing a corrected or re-codified copy of same with the Town Clerk.

Section 8. Codification.

It is the intention of the Town Commission of the Town of Dundee that Section 3 of this Ordinance incorporated herein shall become and be made a part of the Code of Ordinances and Land Development Code, Town of Dundee, Florida.

Section 9. Business Impact Estimate.

On October 1, 2023, Senate Bill 170 ("SB 170"), *Chapter 2023-309, Laws of Florida*, was enacted amending Section 166.041, Florida Statutes, requiring a local government to prepare a *business impact estimate* before the enactment of an ordinance. Section 166.041(4)(c)1, as amended, provided that municipal ordinances enacted to implement Part II of Chapter 163, Florida Statutes, were not subject to the *business impact estimate* requirement.

On October 1, 2024, Senate Bill 1628 (“SB 1628”), as codified under *Chapter 2024-145, Laws of Florida*, becomes effective and further amends Section 166.041, Fla. Stat. (2023), by creating express exclusion(s) for *development orders* and *development permits*, as defined by Section 163.3164, Florida Statutes (2023).

In this instance, this Ordinance is required for compliance with state law or regulation; relating to the adoption of budgets and/or budget amendments which includes, but may not be limited to, revenue sources to necessary to fund the budget; relating to procurement specifically for the funding of necessary capital facilities attributable to unprecedented residential growth and development; and this Ordinance is enacted and necessary to implement the issuance of *development permits* (as defined by §163.3164(16), Florida Statutes). As such, pursuant to applicable Florida law, this Ordinance is exempt and does not require a business impact estimate.

Section 10. Effective Date.

This Ordinance shall take effect immediately upon adoption after a Second and Final Reading/Public Hearing, provided however, the schedule of Transportation Impact Fees (TIF) established herein shall be effective in accordance with §163.31801, Florida Statutes (2024), no less than 90 days after the date of the final passage of this Ordinance which will be on or about *January 1, 2025*. After the effective date of this Ordinance, the Town Manager is directed to develop and publish a notice of the impending adjustment in the Transportation Impact Fees in a prominent location on the Town’s website and in a conspicuous location at Town Hall.

INTRODUCED AND PASSED, on First Reading and public hearing with a quorum present and voting, by the Town Commission of the Town of Dundee, Florida, this 10th day of September, 2024.

PASSED AND DULY ADOPTED, on Second Reading and public hearing with a quorum present and voting, by the Town Commission of the Town of Dundee, Florida, this 24th day of September, 2024.

TOWN OF DUNDEE, FLORIDA

Mayor-Sam Pennant

ATTEST:

Town Clerk – Lita O’Neill

Approved as to form:

Town Attorney – Frederick J. Murphy, Jr.

Ordinance No. 24-10
Town of Dundee
Transportation Impact Fees

ORDINANCE NO. 24-10

EXHIBIT "A"

Ordinance No. 24-10
Town of Dundee
Transportation Impact Fees

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EXHIBIT "B"