

Not Transmitted
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SECRETARY OF STATE

HERNANDO COUNTY
ORDINANCE NO. 86 - 29

ROADS IMPACT FEE ORDINANCE

AN ORDINANCE RELATING TO THE REGULATION OF THE USE AND DEVELOPMENT OF LAND IN HERNANDO COUNTY, FLORIDA, PROVIDING FOR IMPOSITION OF AN IMPACT FEE ON LAND DEVELOPMENT IN HERNANDO COUNTY FOR PROVIDING NEW ROADS AND RELATED FACILITIES NECESSITATED BY SUCH NEW DEVELOPMENT; PROVIDING FOR A SHORT TITLE; STATING THE AUTHORITY FOR ADOPTION OF THE ORDINANCE AND ITS APPLICABILITY; PROVIDING DEFINITIONS; PROVIDING FINDINGS AND DECLARATIONS OF THE BOARD OF COUNTY COMMISSIONERS; PROVIDING FOR THE IMPLEMENTATION OF THE HERNANDO COUNTY COMPREHENSIVE PLAN; PROVIDING FOR THE PAYMENT OF A ROADS IMPACT FEE AS THE PREREQUISITE FOR ISSUANCE OF BUILDING PERMITS AND MOBILE HOME PERMITS; PROVIDING FOR REVIEW AND ADJUSTMENT OF THE IMPACT FEE; PROVIDING A METHOD OF PAYMENT OF THE FEE; PROVIDING FOR THE ESTABLISHMENT OF ROADS IMPACT FEE DISTRICTS; PROVIDING FOR THE PLACEMENT OF REVENUE COLLECTED FROM ROADS IMPACT FEES INTO ROADS IMPACT FEE TRUST FUNDS ESTABLISHED FOR THAT PURPOSE; LIMITING THE EXPENDITURE OF FUNDS FROM THE ROADS IMPACT FEE TRUST FUNDS TO CERTAIN CAPITAL COSTS; PROVIDING FOR EXEMPTIONS AND CREDITS; PROVIDING FOR REFUND OF UNEXPENDED FUNDS; PROVIDING FOR REVIEW OF THE FEE SCHEDULE; PROVIDING A PENALTY AND ENFORCEMENT PROVISION; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Hernando County Comprehensive Plan establishes the policy that land development shall bear a proportionate share of the cost of the provision of the new or expanded transportation capital facilities required by such development; and

WHEREAS, the Hernando County Comprehensive Plan establishes the policy that land development shall not be permitted unless adequate capital facilities exist or are assured; and

WHEREAS, the Hernando County Comprehensive Plan establishes the policy that the imposition of impact fees is one of the preferred methods of regulating new land development in order to ensure that new land development bears a proportionate share of the cost of capital facilities necessary to accommodate the new development; and

WHEREAS, the Board of County Commissioners of Hernando County has determined that Hernando County must expand its road system in order to maintain current road standards if new development is to be accommodated without decreasing current standards, and in order to promote and protect the public health, safety, and welfare;

WHEREAS, the Florida Legislature through the enactment of §163.3202(3) Florida Statutes (1985) has sought to encourage local governments to enact impact fees as land development regulations;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY:

Section One: Short Title, Authority, and Applicability.

A. This ordinance shall be known and may be cited as the "Roads Impact Fee Ordinance."

B. The Board of County Commissioners of Hernando County has the authority to adopt this ordinance pursuant to Article VIII of the Constitution of the State of Florida, and Florida Statutes 125, Section 163.3201, Section 163.3202, and Section 380.06(16).

C. This ordinance shall apply to the unincorporated area of Hernando County and to the incorporated areas of Hernando County to the extent permitted by Article VIII, §1(f), of the Constitution of the State of Florida.

Section Two: Intents and Purposes

A. This ordinance is intended to implement and be consistent with the Hernando County Comprehensive Plan.

B. The purpose of this ordinance is to regulate the use and development of land so as to assure that new development bears a proportionate share of the cost of capital expenditures necessary to provide roads in Hernando County as contemplated by the Hernando County Comprehensive Plan.

Section Three: Rules of Construction

A. The provisions of this ordinance shall be liberally construed so as to effectively carry out its purpose in the interest of the public health, safety, and welfare.

B. For the purposes of administration and enforcement of this ordinance, unless otherwise stated in this ordinance, the following rules of construction shall apply to the text of this ordinance:

- (1) In case of any difference of meaning or implication between the text of this ordinance and any caption, illustration, summary table, or illustrative table, the text shall control.
- (2) The word "shall" is always mandatory and not discretionary; the word "may" is permissive.
- (3) Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- (4) The phrase "used for" includes "arranged for," "designed for," "maintained for," or "occupied for."
- (5) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
- (6) Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either...or," the conjunction shall be interpreted as follows:
 - (a) "And" indicates that all the connected terms, conditions, provisions, or events shall apply.

- (b) "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
- (c) "Either...or" indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.
- (7) The word "includes" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.
- (8) "County Administrator" means the County Administrator and/or the county or municipal officials he/she may designate to carry out the administration of this ordinance.
- (9) A road right-of-way used to delineate roads impact fee district boundaries may be considered within any district it bounds.
- (10) The land use types listed in Section Six shall have the same meaning as under the Hernando County Zoning Regulations.

Section Four: Definitions

A. A "feepayer" is a person commencing a land development activity which generates traffic and which requires the issuance of a building permit.

B. A "capital improvement" includes transportation planning, preliminary engineering, engineering design studies, land surveys, rights-of-way acquisition, engineering, permitting, and construction of all the necessary features for any road construction project, including but not limited to: (a) construction of new through lanes; (b) construction of new turn lanes; (c) construction of new bridges; (d) construction of new drainage facilities in conjunction with new roadway construction; (e) purchase and installation of traffic signalization (including both new and upgraded signalization); (f) construction of curbs,

medians, and shoulders; and (g) relocating utilities to accommodate new roadway construction.

C. "Expansion" of the capacity of a road applies to all road and intersection capacity enhancements and includes but is not limited to extensions, widening, intersection improvements, upgrading signalization, improving pavement conditions, and expansion of bridges.

D. "Land development activity generating traffic" means any change in land use or any construction of buildings or structures or any change in the use of any structure that attracts or produces vehicular trips.

E. "Road" shall have the same meaning as set forth in § 334.03(17) Florida Statutes (1985).

F. "Site-related improvements" are capital improvements, including right-of-way dedications, for direct access improvements to the development in question. Direct access improvements include but are not limited to the following: (1) site driveways and roads, (2) right and left turn lanes leading to those driveways, and (3) traffic control measures for those driveways.

G. "Independent Fee Calculation Study" means the traffic engineering and/or economic documentation prepared by a feepayer to allow the determination of the impact fee other than by the use of the table in Section Six (A) of this ordinance.

H. "Level of Service" shall have the same meaning as set forth in the Highway Research Board's Highway Capacity Manual (1965).

Section Five: Imposition of Roads Impact Fee

A. Any person who, after the effective date of this ordinance, seeks to develop land by applying for a building permit or mobile home permit to make an improvement to land which will generate additional traffic shall be required to pay a roads impact fee in the manner and amount set forth in this ordinance.

B. No building permit or mobile home permit for any activity requiring payment of an impact fee pursuant to Section Six of this ordinance shall be issued unless and until the roads impact fee hereby required has been paid as specified in Section Seven.

Section Six: Computation of the Amount of Roads Impact Fee

A. At the option of the feepayer, the amount of the fee may be determined by the following fee schedule. The fees shown on the schedule reflect a 15% discount to encourage use of the schedule in order to avoid the expenditure of administrative time on the processing of independent fee calculation studies.

SCHEDULE OF ROADS IMPACT FEES

LAND USE TYPE (UNIT)	IMPACT FEE PER UNIT
RESIDENTIAL:	
SINGLE FAMILY, DETACHED	\$564
SINGLE FAMILY, ATTACHED	440
MULTI FAMILY	344
MOBILE HOME 1 ACRE	564
MOBILE HOME-OTHER	271
HOTEL/MOTEL	449
OTHER RESIDENTIAL	564
INDUSTRIAL AND WAREHOUSE:	
INDUSTRIAL PER 1,000 SQ FT	187
WAREHOUSE PER 1,000 SQ FT	167
STORAGE PER 1,000 SQ FT	99
OFFICE AND FINANCIAL PER 1,000 SQ FT:	
MEDICAL	2,141
GENERAL	428
RETAIL PER 1,000 SQ FT	1,362
RESTAURANT PER 1,000 SQ FT	2,152

If a building permit is requested for mixed uses, then the fee shall be determined through using the above schedule by apportioning the space committed to uses specified on the schedule.

If the type of development activity for which a building permit is applied for is not specified on the above fee schedule, the County Administrator shall use the fee applicable to the most nearly comparable type of land use on the above fee schedule. The County Administrator shall be guided in the selection of a comparable type by the report entitled Trip Generation: An

Information Report (Third Edition) prepared by The Institute of Transportation Engineers. If the County Administrator determines that there is no comparable type of land use on the above fee schedule, then the County Administrator shall determine the fee by a) using traffic generation statistics contained in the report entitled Trip Generation: An Information Report (Third Edition) prepared by The Institute of Transportation Engineers, b) applying the formula set forth in Section Six (B) hereof, and c) reducing the fee so determined by 15%.

In the case of change of use, redevelopment, or modification of an existing use which requires the issuance of a building permit, the impact fee shall be based upon the net increase in the impact fee for the new use as compared to the previous use. The County Administrator shall be guided in this determination by the report entitled Trip Generation: An Information Report (Third Edition) prepared by The Institute of Transportation Engineers.

B. If a feepayer opts not to have the impact fee determined according to paragraph (A) of this section, then the feepayer shall prepare and submit to the County Administrator an independent fee calculation study for the land development activity for which a building permit is sought. The independent fee calculation study shall follow the prescribed methodologies and formats for such a study established by the County Administrator. The traffic engineering and/or economic documentation submitted shall show the basis upon which the independent fee calculation was made, including but not limited to the following:

1. Traffic Engineering Studies:

- (a) Documentation of trip generation rates appropriate for the proposed land development activity.
- (b) Documentation of trip length appropriate for the proposed land development activity.
- (c) Documentation of trip data appropriate for the proposed land development activity.

2. Economic Documentation Studies:

(a) Documentation of the cost per lane per mile for roadway construction appropriate for proposed land development activity.

(b) Documentation of credits attributable to the proposed land development activity which can be expected to be available to replace the portion of the service volume used by the traffic generated by the proposed land development activity.

This documentation shall be prepared and presented by qualified professionals in their respective fields.

The following formula shall be used by the County Administrator to determine the impact fee per unit of development:

1.
$$\text{NEW TRAVEL} = \frac{\text{TRIPS PER DAY PER UNIT} \times \text{TRIP LENGTH} \times \% \text{ NEW TRAVEL}}{\text{TRAVEL}}$$
2.
$$\text{NEW ROAD CAPACITY} = \text{NEW TRAVEL} / 2 / \text{LANE CAPACITY}$$
3.
$$\text{TOTAL COST} = \text{NEW ROAD CAPACITY} \times \text{COST PER LANE MILE}$$
4.
$$\text{CREDITS} = (\$ \text{ PER GALLON} \times [\text{ANNUAL TRAVEL} / \text{MILES PER GALLON}]) \times \text{PRESENT VALUE FACTOR}$$
5.
$$\text{NET COST} = \text{TOTAL COST} - \text{CREDITS}$$
6.
$$\text{IMPACT FEE} = \text{NET COST}$$

Section Seven: Payment of Fee

A. The person applying for the issuance of a building permit or mobile home permit shall pay the fee to the County Administrator prior to the issuance of a building permit or a mobile home permit. At the option of the feepayer, the feepayer may delay payment by executing a non-interest bearing promissory note payable to the county or municipality for the amount of the fee which promissory note shall be paid prior to the final building inspection and the granting of a certificate of occupancy for the development in question.

B. All funds collected shall be properly identified by roads impact fee district and promptly transferred for deposit in

the appropriate Roads Impact Fee Trust Fund, to be held in separate accounts as determined in Section Nine of this ordinance and used solely for the purposes specified in this ordinance.

C. In lieu of all or part of the roads impact fee, the Board of County Commissioners may accept the offer by a feepayer to construct all or part of a road improvement project shown in the Hernando County Comprehensive Plan or appropriate to the implementation thereof. This offer shall not include the construction of site-related improvements. Such construction must be in accordance with County, Municipal or State design standards, whichever is applicable. The feepayer shall submit a project description in sufficient detail, including competitive bids if so requested, to allow the County Administrator to establish an engineering and construction cost estimate. The County Administrator shall credit this estimated cost or the actual cost of this construction, whichever is lower, against the roads impact fee otherwise due. The portion of the fee represented by the road construction shall be deemed paid when the construction is completed and accepted by the County or State for maintenance or when the feepayer posts security as provided below for the costs of such construction. Security in the form of a performance bond, irrevocable letter of credit, or escrow agreement shall be posted with the Board of County Commissioners in an amount approved by the Board equal to one hundred ten percent (110%) of the full cost of such construction. If the road construction project will not be constructed within one (1) year of the acceptance of the offer by the Board of County Commissioners, the amount of the security shall be increased by ten percent (10%) compounded for each year or fraction thereof of the life of the security. The security shall be reviewed and approved by the County Attorney's office prior to acceptance of the security by the Board.

Section Eight: Roads Impact Fee Districts

There are hereby established four (4) roads impact fee districts as shown in Appendix I attached hereto and incorporated

herein by reference.

Section Nine: Roads Impact Fee Trust Funds Established

A. There are hereby established separate Roads Impact Fee Trust Funds, one for each roads impact fee district established by Section Eight of this Ordinance.

B. Funds withdrawn from these accounts must be used in accordance with the provisions of Section Ten of this Ordinance.

Section Ten: Use of Funds

A. The collecting governmental unit shall be entitled to up to but not more than 3% of the funds collected to compensate them for the administrative expense of collecting and administering the roads impact fee ordinance. All remaining funds collected from roads impact fees shall be used for the purpose of capital improvements to and expansion of transportation facilities associated with the arterial and collector road network in Hernando County. Such improvements shall be of the type made necessary by the new development.

B. No funds shall be used for periodic or routine maintenance as defined in §334.03(13) and (18) Florida Statutes (1985).

C. Funds shall be used exclusively for capital improvements or expansion within the roads impact fee district (as identified in Attachment 1 hereof) from which the funds were collected or for projects in other traffic impact districts that are of direct benefit to the traffic impact district from which the funds were collected. Funds shall be expended in the order in which they are collected.

D. Each fiscal period the County Administrator shall present to the Board of County Commissioners a proposed capital improvement program for roads, assigning funds, including any accrued interest, from the several Roads Impact Fee Trust Funds to specific road improvement projects and related expenses. Monies, including any accrued interest, not assigned in any fiscal period shall be retained in the same Roads Impact Fee

Trust Funds until the next fiscal period, except as provided by the refund provisions of this ordinance.

Section Eleven: Refund of Fees Paid

A. If a building permit expires, then the feepayer, his heirs, successors or assigns, shall be entitled to a refund of the impact fee paid as a condition for its issuance except that the County shall retain three percent (3%) of the fee to offset the costs of refunding.

B. Any funds not expended or encumbered by the end of the calendar quarter immediately following six (6) years from the date the roads impact fee payment was received shall, upon application of the current owner, within one hundred eighty (180) days of the expiration of the six (6) year period, be returned the current owner with interest at the rate of six percent (6%) per annum.

Section Twelve: Exemptions and Credits

A. The following shall be exempted from payment of the impact fee:

1. Alterations or expansion of an existing building where no additional units are created, where the use is not changed, and where no additional vehicular trips will be produced over and above those produced by the existing use.
2. The construction of accessory buildings or structures which will not produce additional vehicular trips over and above those produced by the principal building or use of the land.
3. The replacement of a residential land use with a new unit of the same type and use provided that no additional trips will be produced over and above those produced by the original use of the land.
4. The replacement of a non-residential building or structure with a new building or structure of the

same size and use provided that no additional trips will be produced over and above those produced by the original use of the land.

An exemption must be claimed by the feepayer at the time of the issuance of a building permit or mobile home permit. Any exemption not so claimed shall be deemed waived by the feepayer.

B. Credits:

1. No credit shall be given for site-related improvements.
2. All roadway improvements required under a County or City-approved Development Order, except for those improvements deemed site-related, shall be credited against roads impact fees. However, the Board of County Commissioners reserves the right to determine the amount to be credited by preparing engineering and construction cost estimates and/or real estate appraisals for those improvements by using the methodology described in Section Seven (C).

Section Thirteen: Review

The fee schedule contained in Section Six (A) hereof shall be reviewed by the Board of County Commissioners upon the completion of the transportation element of the Hernando County Comprehensive Plan and at least once each fiscal biennium thereafter.

Section Fourteen: Penalty Provision

A violation of this ordinance shall be a misdemeanor punishable according to law; however, in addition to or in lieu of any criminal prosecution Hernando County or any feepayer shall have the power to sue in civil court to enforce the provisions of this ordinance.

Section Fifteen: Severability

If any section, phrase, sentence, 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 affect the validity of the remaining portions thereof.

Section Sixteen: Inclusion Into the Code

It is the intention of the Board of County Commissioners of Hernando County, Florida, and it is hereby provided, that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of Hernando County, Florida. To this end, the sections of this Ordinance may be re-numbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or other appropriate designation.

Section Seventeen: Effective Date

This ordinance shall become effective January 1, 1987.

PASSED AND DULY ADOPTED THIS 28th DAY OF October, 1986.

ATTEST:

(SEAL)

By Harold William Brown
Harold William Brown, Clerk

BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA

By: William T. Koenig III
William T. Koenig III
Chairman

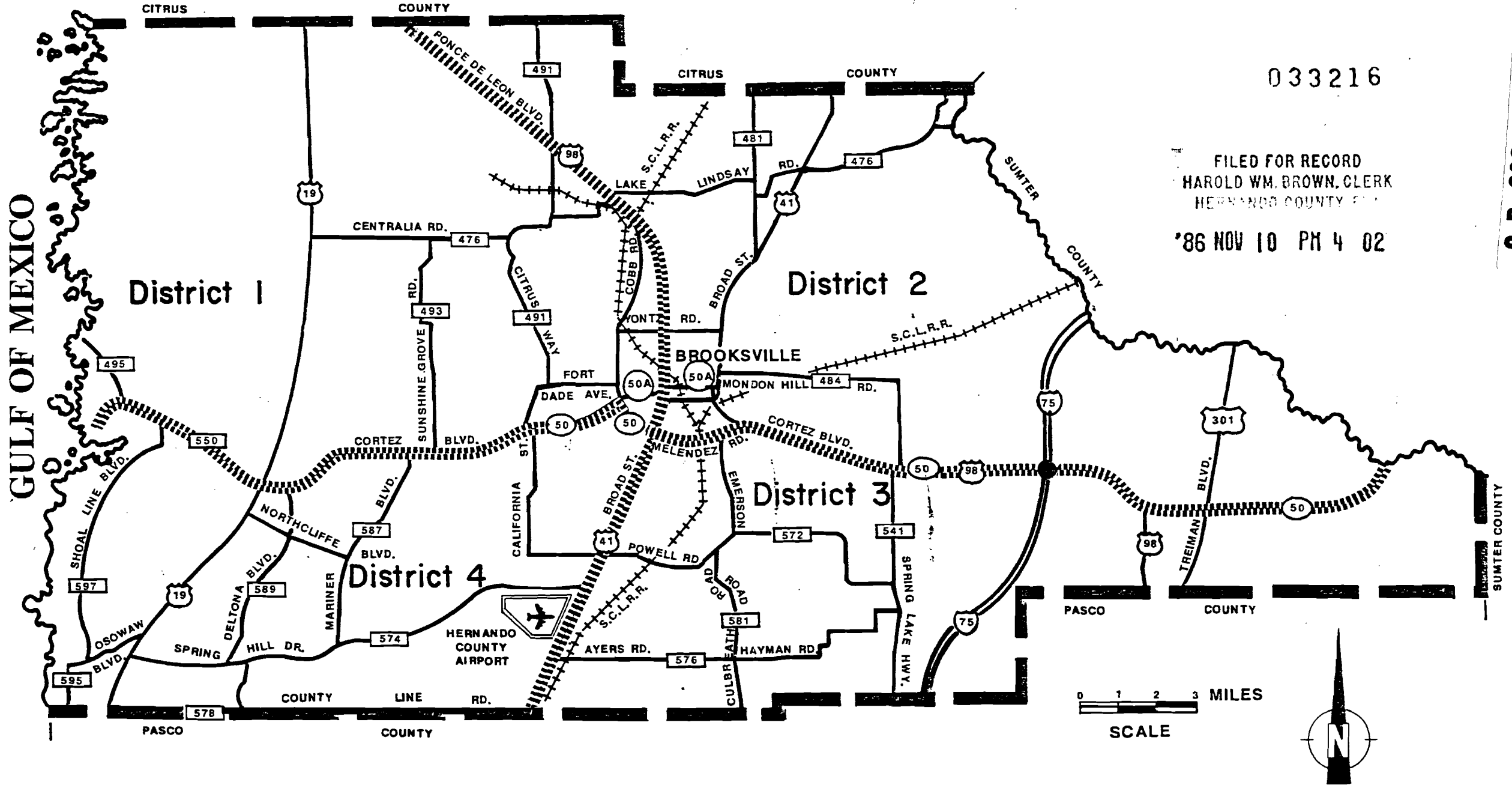
Approved as to form and legal sufficiency:

Robert R. [Signature]
Hernando County Attorney

HERNANDO COUNTY

PROPOSED TRANSPORTATION IMPACT BENEFIT DISTRICTS

APPENDIX I



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FILED FOR RECORD
HAROLD WM. BROWN, CLERK
HERNANDO COUNTY FLA

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