

ORDINANCE NO.: 2013-13

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3 **AN ORDINANCE AMENDING CHAPTER 23, ARTICLE III, DIVISION V,**
4 **OF THE HERNANDO COUNTY CODE OF ORDINANCES RELATING TO**
5 **IMPACT FEES; AMENDING IMPACT FEE SCHEDULE IN SECTION 23-138**
6 **(ROADS), PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR**
7 **APPLICABILITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR**
8 **CONFLICTING PROVISIONS; PROVIDING FOR FILING WITH THE**
9 **DEPARTMENT OF STATE; PROVIDING FOR INCLUSION IN THE CODE;**
10 **PROVIDING FOR AN EFFECTIVE DATE.**

11
12 **WHEREAS,** the Board of County Commissioners (County) has adopted the Hernando
13 County Comprehensive Plan within which are included goals, objectives, and policies, (including
14 specifically Goal 1.04 and Objective 9.01C), related to the County requiring new development to
15 pay a fair, equitable and proportionate share of the costs required to provide adequate public
16 facilities to that new development; and

17
18 **WHEREAS,** the Hernando County Comprehensive Plan Policy 9.01C(2) specifically
19 identifies the imposition of impact fees as a preferred method of ensuring that future development
20 bears a proportionate share of the cost of capital facilities necessary to accommodate future
21 development; and

22
23 **WHEREAS,** the Hernando County Comprehensive Plan Policy 9.01C(3) compels the
24 County to regularly review its adopted impact fees to ensure that future development bears its
25 proportionate share of capital facilities costs; and

26
27 **WHEREAS,** Chapter 163, Part II, Florida Statutes, requires the implementation of these
28 goals, objectives, and policies through the adoption of consistent land development regulations; and

29
30 **WHEREAS,** the County desires to review and update its impact fee ordinances and base
31 new fees on the most recent and localized data available; and

32
33 **WHEREAS,** the Florida Impact Fee Act, Section 163.31801(3)(d) provides that notice be
34 provided no less than 90 days before the effective date of an ordinance imposing a new or increased
35 impact fee; fees imposed by this Ordinance will be effective on August 14, 2014; and

36
37 **WHEREAS,** this proposed substantive amendment to the Hernando County Land
38 Development Regulations, Chapter 23, Article III, (Impact Fees), has received public hearing(s)
39 before the Local Planning Agency and the Board of County Commissioners as required by state and
40 local law; and

41
42 **WHEREAS,** the Board of County Commissioners finds that the proposed amendment is
43 consistent with the goals, objectives and policies of the Comprehensive Plan.

44
45 **NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**
46 **COMMISSIONERS OF HERNANDO COUNTY, FLORIDA:**

FILED
2013 APR 30 AM 11:29
DEPARTMENT OF STATE
TALLAHASSEE FLORIDA

1 **SECTION I.** The *Schedule of Roads Impact Fees* contained in Hernando County Code of
2 Ordinances, Chapter 23, Article III, Division 5 (*Roads Impact Fee*), Section 23-138 (*Computation of*
3 *the amount of roads impact fees*) (a), is hereby repealed in its entirety and replaced with the updated
4 SCHEDULE OF ROADS IMPACT FEES set forth in **Exhibit A**, attached hereto and made a part
5 hereof by this reference, which will be effective on August 14, 2014.
6

7 **SECTION II. SAVINGS CLAUSE.** All complete building permit or certificate of use applications (as
8 applicable) accepted for filing by the Building Department prior to the effective date of the fees
9 provided for in this ordinance and which remain active, together with all contracts for construction of
10 improvements requiring payment of impact fees under this Ordinance, which have been fully executed
11 by all parties prior to the effective date of the fees provided for in this ordinance, shall be exempt from
12 the new impact fees which become effective on August 14, 2014, provided that the contracts meet the
13 applicable qualifying criteria and submit to the mandatory verification process as fully set forth in
14 **Exhibit B** attached hereto and made a part hereof by this reference.
15

16 **SECTION III. APPLICABILITY.** This Ordinance shall be applicable throughout the unincorporated
17 areas of Hernando County and throughout the incorporated areas of Hernando County, to the extent
18 permitted by Article VIII, Section 1(f) of the Constitution of the State of Florida.
19

20 **SECTION IV. SEVERABILITY.** It is declared to be the intent of the Board of County Commissioners
21 that if any section, subsection, clause, sentence, phrase, or provision of this ordinance is for any reason
22 held unconstitutional or invalid, the invalidity thereof shall not affect the validity of the remaining
23 portions of this ordinance.
24

25 **SECTION V. CONFLICTING PROVISIONS.** Special acts of the Florida Legislature applicable
26 only to unincorporated areas of Hernando County, Hernando County ordinances, County resolutions, or
27 parts thereof, in conflict with this ordinance are hereby superseded by this ordinance to the extent of
28 such conflict except for ordinances concerning either adoption or amendment of the Comprehensive
29 Plan, pursuant to Chapter 163, part II, Florida Statutes.
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31 **SECTION VI. REMAINDER.** All sections, subsections, clauses, sentences, phrases, and provisions
32 of Chapter 23, Article III, Division 1, of the Hernando County Code of Ordinances not amended herein
33 shall stay the same and remain in full force and effect until amended, repealed or otherwise acted upon
34 by the Board of County Commissioners.
35

36 **SECTION VII. FILING WITH THE DEPARTMENT OF STATE.** The clerk shall be and is hereby
37 directed forthwith to send a certified copy of this ordinance to the Bureau of Administrative Code,
38 Department of State, R.A. Gray Bldg., Room 101, 500 S. Bronough Street, Tallahassee, FL 32399-0250.
39

40 **SECTION VIII. INCLUSION IN CODE.** It is the intention of the Board of County Commissioners
41 of Hernando County, Florida, and it is hereby provided, that the provisions of this Ordinance shall
42 become and be made a part of the Code of Ordinances of Hernando County, Florida. To this end, any
43 section or subsection of this Ordinance may be renumbered or re-lettered to accomplish such intention,
44 and the word "ordinance" may be changed to "section", article," or other appropriate designation.
45 Section II through Section IX (including Exhibit B) need not be codified.
46
47

1 SECTION IX. EFFECTIVE DATE. This ordinance shall take effect immediately upon filing with the
2 Department of State.

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4 DULY PASSED AND ADOPTED IN REGULAR SESSION THIS 23rd DAY OF APRIL, 2013.



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13 DONALD C. BARBEE, JR., CLERK

BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA

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By: 
DAVID D. RUSSELL, JR. CHAIRMAN



Approved as to Form and
Legal Sufficiency

By: 

EXHIBIT A
SECTION 23-138

~~SCHEDULE OF ROADS IMPACT FEES~~

Land Use Type	Fee	Effective[†] 11/15/11	Effective[†] 11/10/13
Residential:			
Single-family, detached	\$3,627.00	\$0.00	\$3,627.00
Single-family, attached	2,222.00	0.00	2,222.00
Multifamily	2,498.00	0.00	2,498.00
Mobile home--1 acre lot	3,627.00	0.00	3,627.00
Mobile home--Other	1,823.00	0.00	1,823.00
Recreational vehicle--Lot	3,454.00	0.00	3,454.00
Hotel/motel--Room	3,454.00	0.00	3,454.00
Other residential	3,627.00	0.00	3,627.00
Industrial and warehouse, per 1,000 square feet:			
Industrial buildings*	1,838.00	0.00	1,838.00
Warehouse buildings*	1,308.00	0.00	1,308.00
Storage buildings*	644.00	0.00	644.00
Office and financial, per 1,000 square feet:			
Medical offices*	7,316.00	0.00	7,316.00
General offices*	2,567.00	0.00	2,567.00
Retail, per 1,000 square feet*	5,411.00	0.00	5,411.00
Restaurant, per 1,000 square feet*	12,705.00	0.00	12,705.00
*Denotes square feet of gross building area			

~~†The new impact fee rates shall apply to all building permits and certificates of use issued after the stated effective date; building permit and certificate of use applications which are in process but not yet issued shall be subject to the impact fee rates in effect at the time the building permit or certificate of use is actually issued by the county.~~

EXHIBIT A
SECTION 23-138

SCHEDULE OF ROADS IMPACT FEES

ITE LUC	Land Use	Unit	Net Impact Fee @44% ⁽¹⁾
RESIDENTIAL:			
210	Single Family/Mobile Home (Detached)	du	\$2,537
220	Multi-Family (Apartment)	du	\$1,644
230	Residential Condominium/Townhouse	du	\$1,432
240	Mobile Home Park	du	\$934
251	Retirement Community/Age-Restricted	du	\$828
253	Congregate Care Facility	du	\$242
LODGING:			
310	Hotel	room	\$1,288
320	Motel	room	\$910
RECREATION:			
416	Recreational Vehicle Park	site	\$361
420	Marina	berth	\$866
430	Golf Course	acre	\$1,474
444	Movie Theater with Matinee	screen	\$9,768
492	Health/Fitness Club	1,000 sf	\$7,777
INSTITUTIONS:			
520	Elementary School (Private)	student	\$214
522	Middle School (Private)	student	\$301
530	High School (Private)	student	\$323
540	University (7,500 or fewer students) (Private)	student	\$585
550	University (more than 7,500 students) (Private)	student	\$441
565	Day Care	1,000 sf	\$4,960
610	Hospital	1,000 sf	\$3,310
620	Nursing Home	bed	\$298
630	Clinic	1,000 sf	\$7,681
OFFICE:			
710	General Office 100,000 sf or less	1,000 sf	\$3,031
710	General Office 100,001-200,000 sf	1,000 sf	\$2,568
710	General Office greater than 200,000 sf	1,000 sf	\$2,174
720	Medical Office 10,000 sf or less	1,000 sf	\$5,749
720	Medical Office greater than 10,000 sf	1,000 sf	\$8,381
RETAIL:			
812	Building Materials and Lumber Store	1,000 sf	\$10,268
813	Discount Superstore	1,000 sf	\$13,523
816	Hardware/Paint Store	1,000 sf	\$2,489
820	General Commercial Center 50,000 sf/gla or less	1,000 sf/gla	\$4,200
820	General Commercial Center greater than 50,000	1,000 sf/gla	\$3,769
841	New/Used Auto Sales	1,000 sf	\$4,792
850	Supermarket	1,000 sf	\$5,625
853	Convenience Market w/Gas Pumps	1,000 sf	\$18,413
862	Home Improvement Superstore	1,000 sf	\$2,333
880/88	Pharmacy/Drug Store w/Drive-Thru	1,000 sf	\$2,985
890	Furniture Store	1,000 sf	\$818
912	Bank/Savings Drive-In	1,000 sf	\$8,514
931	Quality Restaurant	1,000 sf	\$10,541
932	High-Turnover Restaurant	1,000 sf	\$12,566
934	Fast Food Rest. w/Drive-Thru	1,000 sf	\$34,795
942	Automobile Care Center	1,000 sf	\$3,942
944	Service Station	fuel pos.	\$3,416
947	Self-Service Car Wash	wash station	\$3,051
n/a	Convenience/Gasoline/Fast Food w/Drive-Thru	1,000 sf	\$39,608
INDUSTRIAL:			
110	General Light Industrial	1,000 sf	\$1,611
120	General Heavy Industrial	1,000 sf	\$347
130	Industrial Park	1,000 sf	\$1,577
140	Manufacturing	1,000 sf	\$880
150	Warehousing	1,000 sf	\$825
151	Mini-Warehouse	1,000 sf	\$291

(1) The new impact fee rates shall apply to all building permits and certificates of use issued after the stated effective date. A building permit and certificate of use applications which are in process but not yet issued shall be subject to the impact fee rates in effect at the time the building permit or certificate of use is actually issued by the county, unless excepted pursuant to the process in Exhibit B. A limited exception process to the application of the new fees is provided for in Exhibit B of the ordinance; failure to timely utilize the stated exception process before the deadline is a jurisdictional defect prohibiting any subsequent challenge to the fee.

EXHIBIT B
SAVINGS CLAUSE

Notice

The Board of County Commissioners intends to put Contractors and property owners on Notice that the existing adopted County impact fees referenced in this Ordinance (which have been temporarily suspended due to the economic down-turn) will be restored, amended, and in some cases increased, effective on August 14, 2014.

The Florida Impact Fee Act, Section 163.31801(3)(d), requires that notice be provided of no less than ninety (90) days before the effective date of an ordinance or resolution imposing a new or increased impact fee. The proposed effective date of the impact fees in this Ordinance will be August 14, 2014; accordingly the notice of such new or increased fees must be provided no later than May 16, 2014.

General Rule / Exemption

Given the extended statutory notice required for the effective date of new or increased fees, the general rule is that the new or increased impact fee rates shall apply to all building permits and certificates of use issued after the stated effective date of the Ordinance, i.e. after August 14, 2014. Accordingly, a complete application for a building permit or certificate of use, filed prior to the effective date of the ordinance but not yet issued a permit on the effective date, will be subject to the impact fee rates in effect at the time the building permit or certificate of use is actually issued by the county except as provided herein. The Board of County Commissioners will provide a savings clause (i.e. a process granting an exemption from the impact fee rates effective on August 14, 2014) for completed building permit or certificate of use applications (as applicable) accepted for filing by the Building Department prior to the effective date (provided that the application remains in an active status) and existing private party construction contracts which *in good faith* contemplated that the fees would still be reduced or non-existent at the time the contract was executed by both parties.

Construction Contract Exemption Verification Process / Decision by County Administrator.

The County recognizes that prior to the effective date of this Ordinance, Hernando County property owners and duly licensed construction contractors have executed bona fide contracts in good faith for the construction of improvements which will be required to pay increased impact fees under this ordinance when the building permit or certificate of occupancy is issued. Because the Commission does not wish to unduly burden existing bona fide contracts entered into between private parties in good faith, the Commission will, upon verification, recognize such contacts as exempt from the new or increased fees which are effective on August 14, 2014, and will permit the responsible party to instead pay the impact fee in place immediately prior to the effective date of this Ordinance.

To be exempt from the fees effective on August 14, 2014, both the Owner and Contractor must submit a sworn verification statement on a form provided by the County; the form shall reflect the following mandatory criteria and standards:

1. Both parties executing the original contract for construction must execute and file with the County Building Department, a sworn statement under penalty of perjury and false official statements, attesting to the date the contract was executed, the impact fees, including amounts, the contract contemplated would need to be paid by the respective parties, if any, including the specific reference to the contract language concerning such fees.
2. A true and correct copy of the contract with an execution date prior to August 14, 2014 must be attached to the sworn statement and attested to under oath, and under penalty of perjury and false official statements, as being a true, correct, and unaltered copy of the contract executed on the dates noted in the contract.
3. The party representing the owner must be the record owner of the property or have submitted information showing the party's authority to sign for the owner. Proof of ownership in accordance with the requirements of the Building Official may be provided.
4. The party signing for the contractor must show evidence that the contractor's company is an existing legal entity recognized to do business in the State of Florida and that the party is authorized to sign on behalf of the company.
5. The Contractor must be licensed by applicable local, state and or federal authorities to do the work called for in the contract, including licensed at the time the contract was executed.
6. The sworn statement and supporting materials must be provided to the County Building Department no later than the close of business on September 16, 2014 to be considered exempt from the fees established in this Ordinance to be effective on August 14, 2014. The Administrator may waive strict compliance with the deadline for good cause shown.
7. The Administrator or his/her designee will make a written decision on whether the exemption should be granted to avoid interference with the submitted contract. The decision may be appealed to the Board of County Commissioners only if the written appeal is filed in the County Administrator's office within ten (10) calendar days of mailing or delivery of the written decision. When a contract has been verified in writing by the County, the application shall be considered conditionally exempt from the new impact fees of this ordinance; accordingly, the impact fee rate structure in effect immediately prior to adoption of this Ordinance and shall apply provided a complete application for a building permit or certificate of use (as applicable) is submitted (and all applicable application fees paid) by the close of business on February 13, 2015. If a complete application is not submitted during this period, the property shall no longer be exempt and shall be subject to the prevailing impact fee rates.
8. The exemption referenced herein is further subject to a condition that the building permit or certificate of use must be issued by the Building Department and all fees paid, within one hundred and eighty (180) days from the date of receipt of a complete building permit / certificate of use application. If the permit or certificate is not issued during this period, the application shall no longer be exempt and shall be subject to the prevailing impact fee rates.



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

April 30, 2013

Honorable Don Barbee, Jr.
Clerk of the Circuit Court
Hernando County
Room 131, 20 North Main Street
Brooksville, Florida 34601-2800

Attention: Ms. Sherry L. Crum, Deputy Clerk

Dear Mr. Barbee:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated April 25, 2013 and certified copies of Hernando County Ordinance Nos. 2013-11 through 2013-13, which was filed in this office on April 30, 2013.

As requested, the date-stamped original is being returned for your records.

Sincerely,

A handwritten signature in cursive script that reads "Liz Cloud".

Liz Cloud
Program Administrator

LC/elr

Enclosure