

## Marguerite Linke

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**From:** Bryant, Linda C. <Linda.Bryant@DOS.MyFlorida.com>  
**Sent:** Thursday, January 28, 2016 4:25 PM  
**To:** Marguerite Linke  
**Cc:** County Ordinances  
**Attachments:** Hernando20160128\_Ordinance2016\_2\_Ack.pdf

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## FLORIDA DEPARTMENT *of* STATE

**RICK SCOTT**  
Governor

**KEN DETZNER**  
Secretary of State

January 28, 2016

Honorable Don Barbee Jr.  
Hernando County Clerk's Office  
20 North Main Street, Rm. 3621  
Brooksville, Florida 34601

Attention: Marguerite Linke

Dear Mr. Barbee:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Hernando County Ordinance No. 2016-2, which was filed in this office on January 28, 2016.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb

ORDINANCE NO.: 2016 - A

AN ORDINANCE AMENDING CHAPTER 23, ARTICLE III OF THE HERNANDO COUNTY CODE OF ORDINANCES RELATING TO IMPACT FEES; AMENDING THE REQUIREMENTS FOR THE IMPOSITION OF IMPACT FEES IN SECTION 23-68; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Ordinance 2015-08 established a reduced schedule of educational facilities impact fees and extended the suspension of those certain impact fees, such that fees would be restored effective on March 1, 2016; and

WHEREAS, the Hernando County Board of County Commissioners participated with the Hernando County School District to complete a study to update the impact fee rates for educational facilities; and

WHEREAS, the completed study clearly demonstrates that the educational facilities impact fee rate schedule that has been suspended by the Hernando County Board of County Commissioners is supported, and lifting the suspension is justifiable; and

WHEREAS, the Hernando County Board of County Commissioners desires to put contractors and property owners on Notice that the existing adopted impact fees referenced by this Ordinance will be restored effective on March 1, 2016.

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

**SECTION I.** *The Schedule of Educational Facilities Impact Fees* contained in Hernando County Code of Ordinances, Chapter 23, Article III, Division 2 (*Educational Facilities Impact Fee*), Section 23-68 (*Imposition of educational facilities impact fee*), subsection (a), is hereby repealed in its entirety and replaced with the following:

- (a) Any person who, after the effective date of this division, seeks to develop land within the county by applying for a building permit for a residential building is hereby required to pay an educational facilities impact fee in the manner and amount set forth in this division. The impact fees established by this division shall not be effective within the boundaries of any municipality which issues building permits until such municipality has executed an interlocal agreement with the county to collect such fees. For a building permit for which a complete application is submitted prior to the effective date of this division, the educational facilities impact fee ordinance in effect on the date of the complete application governs.

1 **SECTION III. SAVINGS CLAUSE.** All complete building permit or certificate of use  
2 applications (as applicable) accepted for filing by the Building Department prior to the effective  
3 date of the fees provided for in this ordinance and which remain active, together with all contracts  
4 for construction of improvements requiring payment of impact fees under this Ordinance, which  
5 have been fully executed by all parties prior to the effective date of the fees provided for in this  
6 ordinance, shall be exempt from the new impact fees which become effective on March 1, 2016,  
7 provided that the contracts meet the applicable qualifying criteria and submit to the mandatory  
8 verification process as fully set forth in **Exhibit A** attached hereto and made a part hereof by this  
9 reference.

10  
11 **SECTION IV. APPLICABILITY.** This Ordinance shall be applicable throughout the  
12 unincorporated areas of Hernando County and throughout the incorporated areas of Hernando  
13 County, to the extent permitted by Article VIII, Section 1(f) of the Constitution of the State of  
14 Florida.

15  
16 **SECTION V. SEVERABILITY.** It is declared to be the intent of the Board of County  
17 Commissioners that if any section, subsection, clause, sentence, phrase, or provision of this  
18 ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect  
19 the validity of the remaining portions of this ordinance.

20  
21 **SECTION VI. CONFLICTING PROVISIONS.** Special acts of the Florida Legislature  
22 applicable only to unincorporated areas of Hernando County, Hernando County ordinances,  
23 County resolutions, or parts thereof, in conflict with this ordinance are hereby superseded by this  
24 ordinance to the extent of such conflict except for ordinances concerning either adoption or  
25 amendment of the Comprehensive Plan, pursuant to Chapter 163, part II, Florida Statutes.

26  
27 **SECTION VII. REMAINDER.** All sections, subsections, clauses, sentences, phrases, and  
28 provisions of Chapter 23, Article III, Division 2, of the Hernando County Code of Ordinances not  
29 amended herein shall stay the same and remain in full force and effect until amended, repealed or  
30 otherwise acted upon by the Board of County Commissioners.

31  
32 **SECTION VIII. FILING WITH THE DEPARTMENT OF STATE.** The clerk shall be and is  
33 hereby directed forthwith to send a certified copy of this ordinance to the Bureau of Administrative  
34 Code, Department of State, R.A. Gray Bldg., Room 101, 500 S. Bronough Street, Tallahassee, FL  
35 32399-0250.

36  
37 **SECTION IX. INCLUSION IN CODE.** It is the intention of the Board of County  
38 Commissioners of Hernando County, Florida, and it is hereby provided, that the provisions of this  
39 Ordinance shall become and be made a part of the Code of Ordinances of Hernando County,  
40 Florida. To this end, any section or subsection of this Ordinance may be renumbered or relettered  
41 to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or  
42 other appropriate designation. Section VI through Section XII need not be codified.

43  
44 **SECTION VIII. EFFECTIVE DATE.** This ordinance shall take effect immediately upon  
45 filing with the Department of State.  
46

1 DULY PASSED AND ADOPTED IN REGULAR SESSION ON THIS 26<sup>TH</sup> DAY OF  
2 JANUARY, 2016.

3  
4  
5 BOARD OF COUNTY COMMISSIONERS  
6 HERNANDO COUNTY, FLORIDA

7  
8  
9 Attest:   
10 DONALD C. BARBEE JR., CLERK

By:   
11 JAMES E. ADKINS, CHAIRMAN



15 Approved as to Form and  
16 Legal Sufficiency

17  
18 By:   
19

EXHIBIT A  
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 downturn) will be restored effective on March 1, 2016.

**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 March 1, 2016. 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 March 1, 2016) 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 March 1, 2016, 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 March 1, 2016, 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.

- 1  
2           2.     A true and correct copy of the contract with an execution date prior to  
3 March 1, 2016, must be attached to the sworn statement and attested to under oath, and under  
4 penalty of perjury and false official statements, as being a true, correct, and unaltered copy of the  
5 contract executed on the dates noted in the contract.  
6
- 7           3.     The party representing the owner must be the record owner of the property or  
8 have submitted information showing the party's authority to sign for the owner. Proof of  
9 ownership in accordance with the requirements of the Building Official may be provided.  
10
- 11          4.     The party signing for the contractor must show evidence that the contractor's  
12 company is an existing legal entity recognized to do business in the State of Florida and that the  
13 party is authorized to sign on behalf of the company.  
14
- 15          5.     The Contractor must be licensed by applicable local, state and or federal  
16 authorities to do the work called for in the contract, including licensed at the time the contract  
17 was executed.  
18
- 19          6.     The sworn statement and supporting materials must be provided to the County  
20 Building Department no later than the close of business on April 4, 2016 to be considered  
21 exempt from the fees established in this Ordinance to be effective on March 1, 2016. The  
22 Administrator may waive strict compliance with the deadline for good cause shown.  
23
- 24          7.     The Administrator or his/her designee will make a written decision on whether the  
25 exemption should be granted to avoid interference with the submitted contract. The decision may  
26 be appealed to the Board of County Commissioners only if the written appeal is filed in the  
27 County Administrator's office within ten (10) calendar days of mailing or delivery of the written  
28 decision. When a contract has been verified in writing by the County, the application shall be  
29 considered conditionally exempt from the new impact fees of this ordinance; accordingly, the  
30 impact fee rate structure in effect immediately prior to adoption of this Ordinance shall apply  
31 provided a complete application for a building permit or certificate of use (as applicable) is  
32 submitted (and all applicable application fees paid) by the close of business on August 31, 2016.  
33 If a complete application is not submitted during this period, the property shall no longer be  
34 exempt and shall be subject to the prevailing impact fee rates.  
35
- 36          8.     The exemption referenced herein is further subject to a condition that the building  
37 permit or certificate of use must be issued by the Building Department and all fees paid, within  
38 one hundred and eighty (180) days from the date of receipt of a complete building permit/  
39 certificate of use application. If the permit or certificate is not issued during this period, the  
40 application shall no longer be exempt and shall be subject to the prevailing impact fee.