

LEE COUNTY ORDINANCE NO. 06-05

AN ORDINANCE AMENDING CHAPTER 2 OF THE LEE COUNTY LAND DEVELOPMENT CODE (LDC), ARTICLE VI, DIVISION 5, FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES (EMS) IMPACT FEES; AMENDING IMPOSITION (§2-385); AMENDING PROVISIONS AND TABLES 1 AND 2 WITHIN COMPUTATION OF AMOUNT (§2-386); AND PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS AND AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Lee County, Florida has adopted a comprehensive Land Development Code; and

WHEREAS, the Board of County Commissioners has the authority to adopt this division pursuant to Article VIII of the Constitution of the State, F.S. Ch. 125 and F.S. §§163.3201, 163.3202 and 380.06(16); and

WHEREAS, Goal 24 of the Lee County Comprehensive Land Use Plan (Lee Plan) mandates that the county maintain clear, concise, and enforceable development regulations that fully address on-site and off-site development impacts, yet function in a streamlined manner; and

WHEREAS, the Board initially adopted Fire and Emergency Medical Service (EMS) impact regulations and an impact fee schedule in 1989 based upon the best information available at that time; and

WHEREAS, in 1999, the Board approved Lee County Ordinance No. 99-10, adding a provision to Lee County Land Development Code (LDC) in Chapter 2, Section 2-386(f), requiring the impact fee schedules set forth in Section 2-386 to be reviewed every three years and updated if necessary; and

WHEREAS, the Board approved a contract with Duncan Associates for the review and update of Fire and EMS impact fee rates; and

WHEREAS, the *Fire/EMS Impact Fee Study, Lee County, Florida*, prepared by Duncan Associates, dated February 2006, forms the basis of the proposed amendments; and

WHEREAS, the Fire and EMS impact fee study generated competent data allowing the use of a sophisticated methodology to determine the impacts of development and to evaluate and establish appropriate impact fees; and

WHEREAS, pursuant to Lee Plan Goal 65, the County will assist fire districts in providing appropriate levels of high-quality cost-effective fire prevention and suppression services throughout the unincorporated county; and

WHEREAS, pursuant to Lee Plan Policy 65.1.5, the County will maintain a fire and EMS impact fee program that allows for voluntary participation of the individual fire districts in Lee County; and

WHEREAS, on February 1, 2006, the proposed update of the Fire and EMS impact fees in LDC Chapter 2 was presented to the Lee County Affordable Housing Committee; and

WHEREAS, on February 10, 2006, the Land Development Code Advisory Committee (LDCAC) reviewed and endorsed the proposed amendments to LDC Chapter 2 with regard to the Fire and EMS impact fee update; and

WHEREAS, on March 8, 2006, the Executive Regulatory Oversight Committee (EROC) reviewed and endorsed the proposed amendments to the LDC Chapter 2 with regard to the Fire and EMS impact fee update; and

WHEREAS, on February 27, 2006, the Local Planning Agency (LPA) reviewed the proposed amendments to LDC Chapter 2 with regard to the Fire and EMS impact fee update and found them consistent with the Lee Plan.

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

SECTION ONE: AMENDMENT TO LAND DEVELOPMENT CODE CHAPTER 2

Lee County Land Development Code Chapter 2, Article VI, Division 5 is amended to read as follows with strike through identifying deleted language and underline identifying new language:

CHAPTER 2

ARTICLE VI. IMPACT FEES

DIVISION 5. FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES IMPACT FEE

Sec. 2-385. Imposition.

(a) - (d) Unchanged.

(e)(1) & (2) are deleted in their entirety and replaced with the following:

(e) The fee schedule in effect prior to April 11, 2006, will remain in effect until the new fees take effect as follows:

(1) Decreases. Decreases in the existing fee for a use type will be effective April 11, 2006.

(2) Increases.

a. A building permit or mobile home move-on permit or recreational vehicle park development order application submitted on or before June 11, 2006, will be assessed an impact fee based upon the fee schedule applicable on April 10, 2006, but only if the building permit or mobile home move-on permit or recreational vehicle park development order is issued on or before September 11, 2006.

b. A building permit or mobile home move-on permit or recreational vehicle park development order application submitted after June 11, 2006, or any building permit or mobile home move-on permit or development order issued after September 11, 2006, will be subject to the amended impact fee schedule.

c. After September 11, 2006, the director may accept payment according to the fee schedule in effect prior to June 11, 2006 only if the following conditions are met. The director's decision is not subject to appeal under section 34-145 of this Code.

1. The application for the permit or development order must have been properly submitted and sufficient for review on or before June 11, 2006; and,

2. The sole grounds for accepting payment under this subsection will be that a governmental action or failure to act in a timely manner caused the issuance of the permit or development order to be delayed beyond September 11, 2006; and,

3. The applicant submits a written request to the director specifying the reasons for the request; and,

4. The director's decision must be in writing and it must set forth the governmental action or failure to act that caused unnecessary delay in the issuance of the permit or development order; and,

5. The ability and authority to accept payments under this subsection will terminate on October 11, 2006.

(3) *When due and payable.* Under this article, impact fees become due and payable at the time of permit issuance. For purposes of this division, a building permit or mobile home move-on permit is considered "issued" when the permit meets all of the following criteria:

- a The permit is approved by the county;
- b Has been picked up by the owner or his agent; and
- c All applicable fees have been paid.

[Previously shown as a note, the text below has been re-labeled to become subsection d.]

Note

- d The development order process is separate and distinct from the building permit process and not relevant with respect to establishing when impact fees become due and payable, except as to RV parks.

Sec. 2-386. Computation of amount.

(a) text unchanged

TABLE 1. FIRE IMPACT FEE SCHEDULE									
FIRE DISTRICT	Use and Development Unit								
	Single-family residence or mobile home on individual lot Per Dwelling	Multi-family Per Dwelling	Mobile home or recreational vehicle in mobile home/RV park Per Space	Hotel/motel Per Room	Retail Per 1,000 sq. ft.	Office Per 1,000 sq. ft.	Public or institutional use Per 1,000 sq. ft.	General Industrial Per 1,000 sq. ft.	Public or private warehouse Per 1,000 sq. ft.
Alva ²	\$622 \$760	\$392 \$595	\$392 \$554	\$634 \$625	\$796 \$593	\$373 \$277	\$796 \$593	\$487 \$286	\$400 \$269
Bayshore ²	\$622 \$760	\$392 \$595	\$392 \$554	\$634 \$625	\$796 \$593	\$373 \$277	\$796 \$593	\$487 \$286	\$400 \$269
Bonita Springs ⁵	\$373 \$660	\$235 \$517	\$235 \$481	\$380 \$542	\$477 \$515	\$224 \$240	\$477 \$515	\$442 \$248	\$60 \$234
Captiva Island ³	\$622 \$760	\$392 \$595	\$392 \$554	\$634 \$625	\$796 \$593	\$373 \$277	\$796 \$593	\$487 \$286	\$400 \$269
Estero ²	\$495 \$540	\$312 \$423	\$312 \$540	\$505 \$444	\$634 \$421	\$297 \$197	\$634 \$421	\$149 \$203	\$79 \$191
Fort Myers ⁴	\$354 \$490	\$223 \$384	\$223 \$357	\$364 \$403	\$453 \$382	\$212 \$178	\$453 \$382	\$186 \$184	\$57 \$173
Fort Myers Beach ³	\$485 \$610	\$306 \$478	\$306 \$445	\$495 \$501	\$624 \$476	\$294 \$222	\$624 \$476	\$446 \$229	\$78 \$216
Fort Myers Shores ³	\$565 \$760	\$356 \$595	\$356 \$554	\$576 \$625	\$723 \$593	\$339 \$277	\$723 \$593	\$470 \$286	\$90 \$269
Iona-McGregor ²	\$307 \$488	\$244 \$382	\$244 \$356	\$395 \$401	\$495 \$381	\$232 \$178	\$495 \$381	\$416 \$183	\$62 \$173
Lee County Airports ⁵	\$622 \$760	\$392 \$595	\$392 \$554	\$634 \$625	\$796 \$593	\$373 \$277	\$796 \$593	\$487 \$286	\$400 \$269
Lehigh Acres ¹	\$380 \$465	\$244 \$364	\$244 \$339	\$396 \$382	\$497 \$363	\$233 \$169	\$497 \$363	\$446 \$175	\$62 \$165
Matlacha-Pine Island ³	\$622 \$760	\$392 \$595	\$392 \$554	\$634 \$625	\$796 \$593	\$373 \$277	\$796 \$593	\$487 \$286	\$400 \$269
North Fort Myers ³	\$287 \$307	\$184 \$240	\$184 \$224	\$293 \$252	\$367 \$240	\$172 \$112	\$367 \$240	\$86 \$115	\$46 \$109
San Carlos Park ²	\$470 \$760	\$296 \$595	\$296 \$554	\$479 \$625	\$602 \$593	\$282 \$277	\$602 \$593	\$444 \$286	\$75 \$269
Sanibel ³	\$535 \$678	\$337 \$531	\$337 \$495	\$546 \$557	\$685 \$529	\$324 \$247	\$685 \$529	\$464 \$255	\$86 \$240
South Trail ²	\$358 \$410	\$226 \$321	\$226 \$299	\$365 \$337	\$458 \$320	\$215 \$149	\$458 \$320	\$187 \$154	\$49 \$145
Tice ²	\$600 \$760	\$378 \$595	\$378 \$554	\$612 \$625	\$768 \$593	\$306 \$277	\$768 \$593	\$400 \$286	\$96 \$269
Upper Captiva ²	\$622 \$760	\$392 \$595	\$392 \$554	\$634 \$625	\$796 \$593	\$373 \$277	\$796 \$593	\$487 \$286	\$400 \$269

Notes for Table 1 (District Names):

¹ Fire Control and Rescue Service District

² Fire Protection and Rescue Service District

³ Fire Control District

⁴ Municipality of Fort Myers

⁵ Fire Department

⁶ Fire Control and Rescue District

TABLE 2. EMS IMPACT FEE SCHEDULE FOR LEE COUNTY EMS SERVICE AREA		
<i>Land Use</i>	<i>Development Unit</i>	<i>EMS Impact Fee Per Unit</i>
Single-family residence or mobile home on individual lot	Dwelling	\$ 30.00 <u>\$ 94.00</u>
Multi-family [includes timeshare]	Dwelling	\$ 22.00 <u>\$ 71.00</u>
Mobile home or recreational vehicle in mobile home/RV park	Space	\$ 22.00 <u>\$ 69.00</u>
Hotel/motel	Room	\$ 17.00 <u>\$ 32.00</u>
Retail	1,000 sq. ft.	\$ 47.00 <u>\$138.00</u>
Office	1,000 sq. ft.	\$ 47.00 <u>\$ 66.00</u>
Public or institutional use	1,000 sq. ft.	\$ 4.00 <u>\$138.00</u>
General industrial	1,000 sq. ft.	\$ 4.00 <u>\$ 14.00</u>
Public or private warehouse	1,000 sq. ft.	\$ 4.00 <u>\$ 7.00</u>

(b) through (f) Unchanged.

SECTION TWO: CONFLICTS OF LAW

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

SECTION THREE: SEVERABILITY

It is the Board of County Commissioner's intent that if any section, subsection, clause or provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such portion will be considered a separate provision and will not affect the remaining provisions of this ordinance. The Board of County Commissioners further declares its intent that this ordinance would have been adopted if such invalid or unconstitutional provision was not included.

SECTION FOUR: CODIFICATION AND SCRIVENER'S ERRORS

The Board of County Commissioners intend that this ordinance will be made part of the Lee County Code; and that sections of this ordinance can be renumbered or relettered and that the word "ordinance" can be changed to "section", "article" or some other appropriate word or phrase to accomplish codification, and regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Manager, or his designee, without the need for a public hearing.

SECTION FIVE: EFFECTIVE DATE

The ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State.

THE FOREGOING ORDINANCE was offered by Commissioner Ray Judah, who moved its adoption. The motion was seconded by Commissioner Douglas St. Cerny and, being put to a vote, the vote was as follows:

Robert P. Janes	Aye
Douglas St. Cerny	Aye
Ray Judah	Aye
Tammara Hall	Absent
John E. Albion	Aye

DULY PASSED AND ADOPTED THIS 11th day of APRIL, 2006.

ATTEST:
CHARLIE GREEN, CLERK

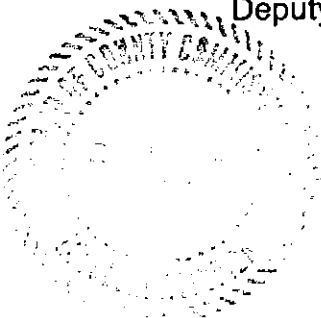
By: Michele J. Cooper
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: [Signature]
Chairwoman

APPROVED AS TO FORM:

By: John W. DeGuzman
Office of County Attorney





FLORIDA DEPARTMENT OF STATE
Sue M. Cobb
Secretary of State
DIVISION OF LIBRARY AND INFORMATION SERVICES

April 19, 2006

Honorable Charlie Green
Clerk of Circuit Court
Lee County
Post Office Box 2469
Fort Myers, Florida 33902-2469

Attention: Michele G. Cooper, Deputy Clerk

Dear Mr. Green:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated April 13, 2006 and certified copies of Lee County Ordinance Nos. 06-05 through 06-07, which were filed in this office on April 14, 2006.

Sincerely,

Liz Cloud
Program Administrator

LC/mp

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