

LEE COUNTY ORDINANCE NO. 03-08

AN ORDINANCE AMENDING THE LEE COUNTY LAND DEVELOPMENT CODE (LDC) TO AMEND CHAPTER 2 (ADMINISTRATION), FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES (EMS) IMPACT FEES; AMENDING IMPOSITION (§2-385); REPEALING AND REPLACING TABLES 1 THROUGH AND INCLUDING 18 IN THEIR ENTIRETY AND AMENDING AND RENUMBERING TABLE 19 WITHIN COMPUTATION OF AMOUNT AND AMENDING OTHER PROVISIONS 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, in 2002, the Board approved a contract with Duncan Associates for the review and updating of Fire and EMS impact fee rates; and

WHEREAS, the *EMS Impact Fee Update prepared for Lee County, Florida*, prepared by Duncan Associates, dated December 19, 2002, 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, on November 8, 2002, the Land Development Code Advisory Committee (LDCAC) reviewed and endorsed the proposed amendments to LDC Chapter 2 regarding Fire and EMS impact fees; and

WHEREAS, on November 13, 2002, the Executive Regulatory Oversight Committee (EROC) reviewed the proposed amendments to the LDC Chapter 2 regarding Fire and EMS impact fees and indicated their fundamental opposition to the use of impact fees in general, but approved the proposed time frame and method for imposition if adopted; and

WHEREAS, on November 25, 2002, the Local Planning Agency (LPA) reviewed the proposed amendments 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) - (c) Unchanged.

(d) On January 1, 2000, the increased fee schedule adopted in section 2-386 will automatically become effective within the Lee County Airports Fire Department service area in accordance with subsection (e). As of January 1, 2000, the County will not collect or impose impact fees in any other fire district or municipality unless, prior to January 1, 2000, the county receives a duly executed resolution from the fire district board or city council establishing the entity's agreement to the collection of impact fees in accordance with the fee schedule set forth in section 2-386. This resolution may provide for the collection of impact fees at a percentage less than 100% of the adopted fee schedule.

After January 1, 2000, the district or municipality may amend or establish the fee schedule collection percentage once per year by adopting an appropriate resolution. All such fee schedule changes will become effective on the first day of January following timely receipt by the county of a copy of the amending or establishing resolution. For purposes of this section, "timely receipt" requires written notice of the amendment, which includes a copy of the amending resolution, to the county attorney's office at least 120 days prior to the

effective date (i.e. January 1 of the subsequent year) of the fee schedule change.

The impact fee schedules in effect prior to August, 1999 will remain in effect through December 31, 1999. However, the schedules will be amended to reflect applicable decreases as identified in section 2-385(e)(1).

(e) The fee schedules set forth in section 2-386 were amended in August 1999 January 2003. Any changes resulting from this amendment will be treated as follows: The fee schedule in effect prior to January 28, 2003 will remain in effect until the new fees take effect as follows:

(1) Decreases. Any decrease from the existing fee for a particular use type will become effective September 1, 1999 February 10, 2003.

(2) Any increase from existing fees will become effective, in full, on January 1, 2000.

(2) Increases.

a. Building permit or mobile home move-on permit or recreational vehicle park development order applications submitted on or before February 28, 2003 will be assessed impact fees based upon the fee schedule applicable on January 27, 2003, if the building permit or mobile home move-on permit or recreational vehicle park development order is issued on or before April 28, 2003.

b. Building permit or mobile home move-on permit or recreational vehicle park development order applications submitted after February 28, 2003 and such permits or development orders issued after April 28, 2003 will be subject to the amended impact fee schedule.

(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.

[NOTE: 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) At the option of the feepayer, the amount of the fire and EMS impact fees may be determined by the schedules shown in this subsection. The reference in the schedules to square feet refers to the gross square footage of each floor of a building measured to the exterior walls, and not to usable, interior, rentable, non-common or other forms of net

square footage. The reference in the schedules to recreational vehicles refers to the number of recreational vehicle sites permitted by the applicable final development order. If a building permit is requested for a building with mixed uses, as defined in section 2-384, then the fee will be determined according to the schedule by apportioning the total space within the building according to the space devoted to each principal use. If a permit application involves a type of development not specified on the schedule, then the county manager will use the fee applicable to the most nearly comparable type of land use on the schedule.

Note: The fee schedules adopted prior to August, 1999 will be deleted from the LDC. However, these fee schedules, as modified in accordance with section 2-385, will remain in effect through December 31, 1999. As of January 1, 2000 these tables will no longer be of any force or effect, except as to determining fees for permits issued prior to January 1, 2000.

[DRAFTER'S NOTE: EXISTING TABLES 1 THROUGH AND INCLUDING 18 ARE DELETED IN THEIR ENTIRETY AND REPLACED BY A NEW TABLE 1 WHICH INCORPORATES THE FIRE IMPACT FEES PREVIOUSLY LISTED WITHIN A SEPARATE TABLE FOR EACH FIRE DISTRICT.]

[DRAFTER'S NOTE: THE EMS IMPACT FEE RATES IN TABLE 19 HAVE BEEN AMENDED, AND TABLE 19 IS RE-NUMBERED TO BECOME NEW TABLE 2.]

TABLE 1 FIRE IMPACT FEE SCHEDULE									
FIRE DISTRICT	Use and Development Unit								
	Single-family residence or mobile home on individual lot	Multi-family	Mobile home or recreational vehicle in mobile home/RV park	Hotel/motel	Retail	Office	Public or institutional use	General industrial	Public or private warehouse
	Per Dwelling	Per Dwelling	Per Space	Per Room	Per 1,000 sq. ft.	Per 1,000 sq. ft.	Per 1,000 sq. ft.	Per 1,000 sq. ft.	Per 1,000 sq. ft.
Alva²	<u>\$560</u> <u>\$622</u>	<u>\$269</u> <u>\$392</u>	<u>\$308</u> <u>\$392</u>	<u>\$308</u> <u>\$634</u>	<u>\$549</u> <u>\$796</u>	<u>\$594</u> <u>\$373</u>	<u>\$549</u> <u>\$796</u>	<u>\$207</u> <u>\$187</u>	<u>\$123</u> <u>\$100</u>
Bayshore²	<u>\$560</u> <u>\$622</u>	<u>\$269</u> <u>\$392</u>	<u>\$308</u> <u>\$392</u>	<u>\$308</u> <u>\$634</u>	<u>\$549</u> <u>\$796</u>	<u>\$594</u> <u>\$373</u>	<u>\$549</u> <u>\$796</u>	<u>\$207</u> <u>\$187</u>	<u>\$123</u> <u>\$100</u>
Bonita Springs⁶	<u>\$290</u> <u>\$373</u>	<u>\$139</u> <u>\$235</u>	<u>\$160</u> <u>\$235</u>	<u>\$160</u> <u>\$380</u>	<u>\$284</u> <u>\$477</u>	<u>\$307</u> <u>\$224</u>	<u>\$284</u> <u>\$477</u>	<u>\$107</u> <u>\$112</u>	<u>\$ 64</u> <u>\$ 60</u>
Captiva Island³	<u>\$560</u> <u>\$622</u>	<u>\$269</u> <u>\$392</u>	<u>\$308</u> <u>\$392</u>	<u>\$308</u> <u>\$634</u>	<u>\$549</u> <u>\$796</u>	<u>\$594</u> <u>\$373</u>	<u>\$549</u> <u>\$796</u>	<u>\$207</u> <u>\$187</u>	<u>\$123</u> <u>\$100</u>
Estero²	<u>\$524</u> <u>\$495</u>	<u>\$252</u> <u>\$312</u>	<u>\$288</u> <u>\$312</u>	<u>\$288</u> <u>\$505</u>	<u>\$514</u> <u>\$634</u>	<u>\$555</u> <u>\$297</u>	<u>\$514</u> <u>\$634</u>	<u>\$194</u> <u>\$149</u>	<u>\$115</u> <u>\$ 79</u>
Fort Myers⁴	<u>\$493</u> <u>\$354</u>	<u>\$237</u> <u>\$223</u>	<u>\$271</u> <u>\$223</u>	<u>\$271</u> <u>\$361</u>	<u>\$483</u> <u>\$453</u>	<u>\$523</u> <u>\$212</u>	<u>\$483</u> <u>\$453</u>	<u>\$182</u> <u>\$106</u>	<u>\$108</u> <u>\$ 57</u>
Fort Myers Beach³	<u>\$560</u> <u>\$485</u>	<u>\$269</u> <u>\$306</u>	<u>\$308</u> <u>\$306</u>	<u>\$308</u> <u>\$495</u>	<u>\$549</u> <u>\$621</u>	<u>\$594</u> <u>\$291</u>	<u>\$549</u> <u>\$621</u>	<u>\$207</u> <u>\$146</u>	<u>\$123</u> <u>\$ 78</u>

TABLE 1 . FIRE IMPACT FEE SCHEDULE

FIRE DISTRICT	Use and Development Unit								
	Single-family residence or mobile home on individual lot	Multi-family	Mobile home or recreational vehicle in mobile home/RV park	Hotel/motel	Retail	Office	Public or institutional use	General industrial	Public or private warehouse
	Per Dwelling	Per Dwelling	Per Space	Per Room	Per 1,000 sq. ft.	Per 1,000 sq. ft.	Per 1,000 sq. ft.	Per 1,000 sq. ft.	Per 1,000 sq. ft.
<u>Fort Myers Shores³</u>	\$560	\$269	\$308	\$308	\$549	\$594	\$549	\$207	\$123
	\$565	\$356	\$356	\$576	\$723	\$339	\$723	\$170	\$ 90
<u>Iona-McGregor²</u>	\$286	\$137	\$157	\$157	\$280	\$303	\$280	\$106	\$ 63
	\$387	\$244	\$244	\$395	\$495	\$232	\$495	\$116	\$ 62
<u>Lee County Airports⁵</u>	\$560	\$269	\$308	\$308	\$549	\$594	\$549	\$207	\$123
	\$622	\$392	\$392	\$634	\$796	\$373	\$796	\$187	\$100
<u>Lehigh Acres¹</u>	\$376	\$180	\$207	\$207	\$368	\$399	\$368	\$139	\$ 83
	\$388	\$244	\$244	\$396	\$497	\$233	\$497	\$116	\$ 62
<u>Matlacha-Pine Island³</u>	\$560	\$269	\$308	\$308	\$549	\$594	\$549	\$207	\$123
	\$622	\$392	\$392	\$634	\$796	\$373	\$796	\$187	\$100
<u>North Fort Myers³</u>	\$175	\$ 84	\$ 96	\$ 96	\$172	\$186	\$172	\$ 65	\$ 39
	\$287	\$181	\$181	\$293	\$367	\$172	\$367	\$ 86	\$ 46
<u>San Carlos Park²</u>	\$422	\$203	\$232	\$232	\$414	\$447	\$414	\$156	\$ 93
	\$470	\$296	\$296	\$479	\$602	\$282	\$602	\$141	\$ 75
<u>Sanibel³</u>	\$498	\$239	\$274	\$274	\$488	\$528	\$488	\$184	\$110
	\$535	\$337	\$337	\$546	\$685	\$321	\$685	\$161	\$ 86
<u>South Trail²</u>	\$224	\$106	\$122	\$122	\$217	\$234	\$217	\$ 82	\$ 49
	\$358	\$226	\$226	\$365	\$458	\$215	\$458	\$107	\$ 57
<u>Tice²</u>	\$560	\$269	\$308	\$308	\$549	\$594	\$549	\$207	\$123
	\$600	\$378	\$378	\$612	\$768	\$360	\$768	\$180	\$ 96
<u>Upper Captiva²</u>	\$560	\$269	\$308	\$308	\$549	\$594	\$549	\$207	\$123
	\$622	\$392	\$392	\$634	\$796	\$373	\$796	\$187	\$100

Notes:

- 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

[DRAFTER'S NOTE: THE EMS IMPACT FEE RATES IN TABLE 19 HAVE BEEN AMENDED, AND TABLE 19 IS RE-NUMBERED TO BECOME NEW TABLE 2.]

TABLE 19. 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	\$ 27.00 <u>\$ 30.00</u>
Multi-family [includes timeshare]	Dwelling	\$ 21.00 <u>\$ 22.00</u>
Mobile home or recreational vehicle in mobile home/RV park	Space	\$ 21.00 <u>\$ 22.00</u>
Hotel/motel	Room	\$ 17.00
Retail	1,000 sq. ft.	\$ 52.00 <u>\$ 47.00</u>
Office	1,000 sq. ft.	\$ 52.00 <u>\$ 47.00</u>
Public or institutional use	1,000 sq. ft.	\$ 5.00 <u>\$ 4.00</u>
General industrial	1,000 sq. ft.	\$ 5.00 <u>\$ 4.00</u>
Public or private warehouse	1,000 sq. ft.	\$ 5.00 <u>\$ 4.00</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 Andrew W. Coy, 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
ANDREW W. COY	AYE
JOHN E. ALBION	AYE

DULY PASSED AND ADOPTED THIS 28th day of January, 2003.

ATTEST:
CHARLIE GREEN, CLERK

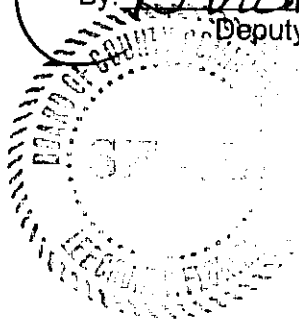
By: *Charlie Green*
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: *Ray Judah*
Chairman

APPROVED AS TO FORM:

By: *John J. Hedgcock*
Office of County Attorney



DIVISIONS OF FLORIDA DEPARTMENT OF STATE
Office of the Secretary
Division of Administrative Services
Division of Corporations
Division of Cultural Affairs
Division of Elections
Division of Historical Resources
Division of Library and Information Services
Division of Licensing
MEMBER OF THE FLORIDA CABINET



FLORIDA DEPARTMENT OF STATE
Ken Detzner
Secretary of State
DIVISION OF ELECTIONS

HISTORIC PRESERVATION BOARDS
Historic Florida Keys Preservation Board
Historic Palm Beach County Preservation Board
Historic Pensacola Preservation Board
Historic St. Augustine Preservation Board
Historic Tallahassee Preservation Board
Historic Tampa/Hillsborough County
Preservation Board
RINGLING MUSEUM OF ART

February 3, 2003

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

Attention: Ruth Frymier, Deputy Clerk

Dear Mr. Green:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated January 30, 2003 and certified copy of Lee County Ordinance No. 03-08, which was filed in this office on January 31, 2003.

Sincerely,

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

Liz Cloud, Chief
Bureau of Administrative Code

LC/mp

RECEIVED
MINUTES OFFICE
2003 FEB -5 AM 11:25