

ORDINANCE NO. 15-02

AN ORDINANCE AMENDING LEE COUNTY ORDINANCE 13-06 (PERTAINING TO IMPACT FEE COLLECTION RATES FOR ROAD, COMMUNITY PARK, REGIONAL PARK, AND SCHOOL IMPACT FEES) TO AUTHORIZE PAYMENT OF THE LOWER IMPACT FEE RATE (20%) AUTHORIZED UNDER ORDINANCE 13-06 FOR APPLICATIONS FILED, BUT NOT ISSUED, ON OR BEFORE THE TWO-YEAR EXPIRATION DATE PROVIDED IN ORDINANCE 13-06 (MARCH 13, 2015) IF CERTAIN CRITERIA IS SATISFIED; THIS ORDINANCE IS APPLICABLE WITHIN BOTH THE INCORPORATED AND UNINCORPORATED AREAS OF LEE COUNTY AS TO THE COLLECTION OF SCHOOL IMPACT FEES; PROVIDING FOR MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING.

WHEREAS, Florida Statutes Section 125.01(1)(t) authorizes counties to adopt ordinances necessary for the exercise of its powers; and,

WHEREAS, the Board of County Commissioners (Board) adopted the regulations applicable to the collection of impact fees in Lee County; and,

WHEREAS, on March 12, 2013, the Board, in recognition of the downturn in the U.S. economy, implemented measures to provide temporary relief to the building and construction industry; and,

WHEREAS, on March 12, 2013, the Board adopted Ordinance 13-06, which provided a two year period in which impact fee rate collection for Road, Community Parks, Regional Parks, and School impact fees was reduced to 20%; and

WHEREAS, as the sunset date for Ordinance 13-06 approaches, it is anticipated that permit applications will be filed on or before the March 13, 2015 to avoid the increase in fees; and,

WHEREAS, the Board desires to provide the County time to review and process applications for development permits while providing applicants with the benefit of the reduction provided under Ordinance 13-06; and,

WHEREAS, this ordinance is intended to be effective in unincorporated Lee County as to Roads, Community and Regional Parks Impact Fees. It is intended to apply countywide as to School Impact Fees.

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

SECTION ONE: AMENDMENT TO ORDINANCE 13-06

Sections One and Two of Ordinance Number 13-06 are hereby amended as follows with strike through identifying deleted text and underline identifying new text.

SECTION ONE: REDUCTION OF THE COLLECTION OF DEVELOPMENT IMPACT FEES IN THE UNINCORPORATED AREAS OF THE COUNTY

1. The collection rate for Road, Community Park and Regional Park impact fees set forth in Chapter 2 of the Land Development Code is reduced by 80% for two-years commencing on, Wednesday, March 13, 2013 and ending on Friday, March 13, 2015, without further action by the Board. The reduction to these fees is applicable in unincorporated Lee County only.
2. A building permit, mobile home move-on permit, or recreational vehicle park development order application submitted on or before the close of business (4:30 pm) on March 13, 2015, must be issued on or before the close of business on Friday, September 11, 2015, in order to realize the current, reduced rate (20%).
3. A building permit, mobile home move-on permit, or recreational vehicle park development order application submitted on or before the close of business on March 13, 2015, but was not issued by the close of business on Friday, September 11, 2015, shall be assessed impact fees applicable at the actual time of permit issuance.
4. After the close of business on Friday, September 11, 2015, the Director may accept payment according to the reduced fee schedule rate in effect prior to March 13, 2015 subject to the following conditions:
 - a. The application for the building permit, mobile home move-on permit, or recreational vehicle park development order was properly submitted and sufficient for review on or before March 13, 2015;
 - b. The sole grounds for accepting payment will be that a governmental action or failure to act in a timely manner caused the issuance of the building permit, mobile home move-on permit, or recreational vehicle park development order to be delayed beyond September 11, 2015; and,
 - c. The applicant submits a written request to the Director specifying the reasons for the request.
 - d. The Director's decision must be in writing and set forth the governmental action or failure to act that caused the delay in the issuance of the building permit, mobile home move-on permit, or recreational vehicle park development order.

- e. The ability and authority to accept such payments under subsection 4 will terminate on September 30, 2015.
- f. The Director's decision to grant or deny a request for payment pursuant to subsection 4 is discretionary and not subject to appeal.

SECTION TWO: REDUCTION OF THE COLLECTION RATE FOR SCHOOL IMPACT FEES COUNTYWIDE

1. The collection rate for school impact fees set forth in Chapter 2 of the Land Development Code is reduced by 80% countywide for two-years, commencing on, Wednesday, March 13, 2013 and ending on Friday, March 13, 2015, without further action by the Board.
2. A building permit, mobile home move-on permit, or recreational vehicle park development order application submitted on or before the close of business (4:30 pm) on March 13, 2015, must be issued on or before the close of business on Friday, September 11, 2015, in order to realize the current, reduced rate (20%).
3. A building permit, mobile home move-on permit, or recreational vehicle park development order application submitted on or before the close of business on March 13, 2015, but was not issued by the close of business on Friday, September 11, 2015, shall be assessed impact fees applicable at the actual time of permit issuance.
4. After the close of business on Friday, September 11, 2015, the Director may accept payment according to the reduced fee schedule rate in effect prior to March 13, 2015 subject to the following conditions:
 - a. The application for the building permit, mobile home move-on permit, or recreational vehicle park development order was properly submitted and sufficient for review on or before March 13, 2015;
 - b. The sole grounds for accepting payment will be that a governmental action or failure to act in a timely manner caused the issuance of the building permit, mobile home move-on permit, or recreational vehicle park development order to be delayed beyond September 11, 2015; and,
 - c. The applicant submits a written request to the Director specifying the reasons for the request.
 - d. The Director's decision must be in writing and set forth the governmental action or failure to act that caused the delay in the issuance of the building permit, mobile home move-on permit, or

recreational vehicle park development order.

- e. The ability and authority to accept such payments under subsection 4 will terminate on September 30, 2015.
- f. The Director's decision to grant or deny a request for payment pursuant to subsection 4 is discretionary and not subject to appeal.

SECTION THREE: CONFLICTS OF LAW

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

SECTION FOUR: SEVERABILITY

If any provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, it is the Board's intention that such portion will become a separate provision and will not affect the remaining provisions of the ordinance. The Board further declares that this ordinance would have been adopted if such unconstitutional provision was not included.

SECTION FIVE: CODIFICATION AND SCRIVENER'S ERRORS

The Board intends 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 SIX: MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

SECTION SEVEN: EFFECTIVE DATE

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

Commissioner Cecil L Pendergrass made a motion to adopt the foregoing ordinance. The motion was seconded by Commissioner John E. Manning. The vote was as follows:

John E. Manning	Aye
Cecil L Pendergrass	Aye
Larry Kiker	Aye
Brian Hamman	Aye
Frank Mann	Nay

DONE AND ADOPTED this 20th day of January, 2015.

ATTEST:
LINDA DOGGETT, CLERK

LEE COUNTY
BOARD OF COUNTY COMMISSIONERS

BY: marcia Wilson
Deputy Clerk

BY: Brian Hamman
Brian Hamman, Chairman



APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY:

Lee County Attorney's Office



FLORIDA DEPARTMENT of STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

January 21, 2015

Honorable Linda Doggett
Clerk of the Circuit Courts
Lee County
Post Office Box 2469
Fort Myers, Florida 33902-2469

Attention: Marcia Wilson

Dear Ms. Doggett:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy for Lee County Ordinance No. 15-02, which was filed in this office on January 21, 2015.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

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