

**ORDINANCE NO. 15-04**

**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 A LOWER IMPACT FEE RATE FOR ROAD, COMMUNITY PARK, REGIONAL PARK, AND SCHOOL IMPACT FEES; 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 the impact fee collection rate for Road, Community Parks, Regional Parks, and School impact fees was reduced to 20%; and

WHEREAS, on March 13, 2015, without further action by the Board, the Impact Fee collection rate reduction will expire; and,

WHEREAS, the Board desires to set a new collection rate for a set duration 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 ~~to 80~~ 45% for ~~two years~~ three years commencing on March ~~16, 2013~~ 2015 and ending on March ~~16, 13, 2015~~ 2018 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 ~~16, 13, 2015~~ 2018, must be issued on or before the close of business on Friday, ~~September 11, 2015,~~ August 31, 2018 in order to realize the current, reduced rate (~~20%~~ 45%).
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 ~~16, 13, 2015~~ 2018, but was not issued by the close of business on Friday, ~~September 11, 2015,~~ August 31, 2018, shall be assessed impact fees applicable at the actual time of permit issuance.
4. After the close of business on Friday, ~~September 11, 2015,~~ August 31, 2018, the Director may accept payment according to the reduced fee schedule rate in effect prior to March ~~16, 13, 2015~~ 2018 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 ~~16, 13, 2015~~ 2018;
  - 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,~~ August 31, 2018; 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~~ 28, 2018.

- 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 to 80~~45% countywide for ~~two years~~ three years, commencing on March ~~13~~16, ~~2013~~ 2015 and ending on March ~~16~~, ~~13~~, ~~2015~~ 2018, 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 ~~16~~, ~~13~~, ~~2015~~ 2018, must be issued on or before the close of business on Friday, ~~September 11, 2015~~, August 31, 2018, in order to realize the current, reduced rate (~~20~~45%).
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 ~~16~~, ~~13~~, ~~2015~~ 2018, but was not issued by the close of business on Friday, ~~September 11, 2015~~, August 31, 2018, shall be assessed impact fees applicable at the actual time of permit issuance.
4. After the close of business on Friday, ~~September 11, 2015~~, August 31, 2018, the Director may accept payment according to the reduced fee schedule rate in effect prior to March ~~16~~, ~~13~~, ~~2015~~ 2018 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 ~~16~~, ~~13~~, ~~2015~~ 2018;
  - 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~~ August 31, 2018; 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~~ 28, 2018.
- 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 FOUR: EXTENSION OF IMPACT FEE CREDITS**

Road, School, Community and Regional Park Impact fee credits issued or recognized by the County that are existing on ~~March 12, 2013~~ March 3, 2015 will be extended for a period of ~~two years~~ three years in recognition of the ~~two year~~ three year reduction on the collection of impact fees adopted ~~by the Board by Ordinance 13-06~~.

#### **SECTION FIVE: REFUNDS**

Refunds of impact fees paid prior to the effective date of this Ordinance ~~March 13, 2013~~ will be issued only in accordance with Chapter 2 of the Land Development Code.

#### **SECTION TWO: 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 THREE: 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 FOUR: 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 FIVE: 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 SIX: EFFECTIVE DATE**

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

**SECTION SEVEN: CONTINUATION OF RATE REDUCTION PROVIDED FOR UNDER ORDINANCE 13-06 AND AMENDMENTS PROVIDED IN ORDINANCE 15-02**

The 20% reduced collection rate provided for under Ordinance 13-06 will remain effective until 4:30 pm on March 13, 2015. The amendments to Section 1 and 2 of Ordinance 13-06 provided under Ordinance 15-02 (Additional review period and additional time frame for payment of the reduced impact fee) will remain effective in accordance with the time frames provided for under Ordinance 15-02 as if fully stated herein.

Commissioner Pendergrass made a motion to adopt the foregoing ordinance. The motion was seconded by Commissioner Kiker. 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 3<sup>rd</sup> day of March, 2015.

ATTEST:  
LINDA DOGGETT, CLERK

LEE COUNTY  
BOARD OF COUNTY COMMISSIONERS

BY: \_\_\_\_\_  
Deputy Clerk

BY: \_\_\_\_\_  
Brian Hamman, Chairman

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

\_\_\_\_\_  
Lee County Attorney's Office