



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

August 15, 2014

Honorable Don Barbee Jr.
Clerk of the Circuit Court
Hernando County
Room 131, 20 North Main Street
Brooksville, Florida 34601-2800

Attention: Ms. Amy Stephens, Administrative Services

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. 2014-16, which was filed in this office on August 15, 2014.

Sincerely,

Liz Cloud
Program Administrator

LC/elr

Enclosure

Amy Stephens

From: Reddick, Ernest L. <Ernest.Reddick@DOS.MyFlorida.com>
Sent: Friday, August 15, 2014 1:00 PM
To: Amy Stephens
Cc: County Ordinances
Attachments: Hernando20140812_Ordinance2014_16_Ack.pdf

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ORDINANCE NO.: 2014 - 16

AN ORDINANCE AMENDING CHAPTER 23, ARTICLE III, DIVISION V OF THE HERNANDO COUNTY CODE OF ORDINANCES RELATING TO IMPACT FEES; AMENDING IMPACT FEE SCHEDULES IN SECTION 23-138 (ROADS IMPACT FEES), TO PROVIDE FOR A DELAY IN THE IMPLEMENTATION OF ROADS IMPACT FEE RATES UNTIL JUNE 12, 2015 IN ORDER TO PROVIDE SUFFICIENT TIME IN WHICH TO UPDATE THE ROADS IMPACT FEE SCHEDULE IN THE EVENT A SALES SURTAX REFERENDUM FOR ROADS PASSES AS PART OF THE NOVEMBER 4, 2014 GENERAL ELECTION; 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, the Board of County Commissioners enacted Ordinance 2013-13 on April 23, 2013, which imposed an impact fee schedule for roads, but delayed the effective date thereof until August 14, 2014; and,

WHEREAS, on July 22, 2014, the Hernando County Board of County Commissioners enacted Ordinance 2014-15, which establishes a 1¢ sales surtax, pending voter approval, with part of the proceeds thereof being assigned to road construction; and,

1 WHEREAS, if the sales surtax is imposed, Hernando County would be legally required to
2 recalculate its road impact fee rate schedule to take into account the additional revenue that the
3 surtax would provide to fund the construction of roads; and,

4 WHEREAS, if the sales surtax is imposed, the Hernando County Board of County
5 Commissioners would therefore have to update the roads impact fee schedule; and,

6 WHEREAS, the Florida Impact Fee Act, Section 163.31801 (3)(d), Florida Statutes, requires
7 that notice be provided of no less than ninety (90) days before the effective date of an ordinance or
8 resolution imposing a new or increased impact fee; and,

9 WHEREAS, the Hernando County Board of County Commissioners desires to delay the
10 effective date of the roads impact fee schedule until June 12, 2015 to provide sufficient time for an
11 updated rate schedule to be completed, and for the drafting and advertisement of an ordinance
12 amendment which will implement the updated roads fee schedule.

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

15 **Section 1. Delaying Effective Date of Roads Impact Fee Schedule.** Section I of
16 Hernando County Ordinance No. 2013-13, is hereby amended to read as follows, with underlined
17 matter added and struck-through matter deleted:

18 The *Schedule of Roads Impact Fees* contained in Hernando County Code of
19 Ordinances, Chapter 23, Article III, Division 5 (*Roads Impact Fee*), Section 23-183
20 (*Computation of the amount of roads impact fees*) (a), is hereby repealed in its

1 entirety and replaced with the updated SCHEDULE OF ROADS IMPACT FEES set
2 forth in Exhibit A, attached hereto and made a part hereof by this reference, which
3 shall be effective on ~~August 14, 2014~~ June 12, 2015.¹

4 **Section 2. Amending Impact Fee Savings Clause.** Section II of Hernando County
5 Ordinance No. 2013-13, is hereby amended to read as follows, with underlined matter added and
6 struck-through matter deleted:

7 All complete building permit or certificate of use applications (as applicable)
8 accepted for filing by the Building Department prior to the effective date of the fees
9 provided for in this Ordinance and which remain active, together with all contracts
10 for construction of improvements requiring payment of impact fees under this
11 Ordinance, which have been fully executed by all parties prior to the effective date
12 of the fees provided for in this ordinance, shall be exempt from the new impact fees
13 which become effective on ~~August 14, 2014~~ June 12, 2015, provided that the
14 contracts meet the applicable qualifying criteria and submit to the mandatory
15 verification process as fully set forth in Exhibit B attached hereto and made a part
16 hereof by this reference.

17 **Section 3. Amending Impact Fee Savings Clause Exhibit.** Exhibit "B" of Hernando

¹Note to Readers and Codifiers: The instant ordinance does not contain any exhibits. The references to exhibits contained in the instant ordinance refer to exhibits that were attached to the ordinance being amended, Ordinance 2013-13.

1 County Ordinance No. 2013-13, is hereby amended to read as follows, with underlined matter added
2 and struck-through matter deleted:

3 EXHIBIT B
4 SAVINGS CLAUSE

5 **Notice**

6 The Board of County Commissioners intends to put Contractors and property
7 owners on Notice that the existing adopted County impact fees referenced in this
8 Ordinance (which have been temporarily suspended due to the economic downturn)
9 will be restored, amended, and in some cases increased, effective on ~~August 14, 2014~~
10 June 12, 2015.

11 The Florida Impact Fee Act, Section 163.31801 (3)(d), requires that notice
12 be provided of no less than ninety (90) days before the effective date of an ordinance
13 or resolution imposing a new or increased impact fee. The proposed effective date
14 of the impact fees in this Ordinance will be ~~August 14, 2014~~ June 12, 2015;
15 accordingly the notice of such new or increased fees must be provided no later than
16 ~~May 16, 2014~~ March 13, 2015.

17 **General Rule / Exemption**

18 Given the extended statutory notice required for the effective date of new or
19 increased fees, the general rule is that the new or increased impact fee rates shall
20 apply to all building permits and certificates of use issued after the stated effective

1 date of the Ordinance, i.e. after ~~August 14, 2014~~ June 12, 2015. Accordingly, a
2 complete application for a building permit or certificate of use, filed prior to the
3 effective date of the ordinance but not yet issued a permit on the effective date, will
4 be subject to the impact fee rates in effect at the time the building permit or
5 certificate of use is actually issued by the county except as provided herein. The
6 Board of County Commissioners will provide a savings clause (i.e. a process granting
7 an exemption from the impact fee rates effective on ~~August 14, 2014~~ June 12, 2015)
8 for completed building permit or certificate of use applications (as applicable)
9 accepted for filing by the Building Department prior to the effective date (provided
10 that the application remains in an active status) and existing private party
11 construction contracts which in good faith contemplated that the fees would still be
12 reduced or non-existent at the time the contract was executed by both parties.

13 **Construction Contract Exemption Verification Process / Decision by County**
14 **Administrator**

15 The County recognizes that prior to the effective date of this Ordinance,
16 Hernando County property owners and duly licensed construction contractors have
17 executed bona fide contracts in good faith for the construction of improvements
18 which will be required to pay increased impact fees under this ordinance when the
19 building permit or certificate of occupancy is issued. Because the Commission does
20 not wish to unduly burden existing bona fide contracts entered into between private

1 parties in good faith, the Commission will, upon verification, recognize such contacts
2 as exempt from the new or increased fees which are effective on ~~August 14, 2014~~
3 June 12, 2015, and will permit the responsible party to instead pay the impact fee in
4 place immediately prior to the effective date of this Ordinance.

5 To be exempt from the fees effective on ~~August 14, 2014~~ June 12, 2015, both
6 the Owner and Contractor must submit a sworn verification statement on a form
7 provided by the County; the form shall reflect the following mandatory criteria and
8 standards:

9 1. Both parties executing the original contract for construction must
10 execute and file with the County Building Department, a sworn statement under
11 penalty of perjury and false official statements, attesting to the date the contract was
12 executed, the impact fees, including amounts, the contract contemplated would need
13 to be paid by the respective parties, if any, including the specific reference to the
14 contract language concerning such fees.

15 2. A true and correct copy of the contract with an execution date prior
16 to ~~August 14, 2014~~ June 12, 2015 must be attached to the sworn statement and
17 attested to under oath, and under penalty of perjury and false official statements, as
18 being a true, correct, and unaltered copy of the contract executed on the dates noted
19 in the contract.

20 3. The party representing the owner must be the record owner of the

1 property or have submitted information showing the party's authority to sign for the
2 owner. Proof of ownership in accordance with the requirements of the Building
3 Official may be provided.

4 4. The party signing for the contractor must show evidence that the
5 contractor's company is an existing legal entity recognized to do business in the State
6 of Florida and that the party is authorized to sign on behalf of the company.

7 5. The Contractor must be licensed by applicable local, state and or
8 federal authorities to do the work called for in the contract, including licensed at the
9 time the contract was executed.

10 6. The sworn statement and supporting materials must be provided to the
11 County Building Department no later than the close of business on ~~September 16,~~
12 ~~2014~~ July 13, 2015 to be considered exempt from the fees established in this
13 Ordinance to be effective on ~~August 14, 2014~~ June 12, 2015. The Administrator
14 may waive strict compliance with the deadline for good cause shown.

15 7. The Administrator or his/her designee will make a written decision
16 on whether the exemption should be granted to avoid interference with the submitted
17 contract. The decision may be appealed to the Board of County Commissioners only
18 if the written appeal is filed in the County Administrator's office within ten (10)
19 calendar days of mailing or delivery of the written decision. When a contract has
20 been verified in writing by the County, the application shall be considered

1 conditionally exempt from the new impact fees of this ordinance; accordingly, the
2 impact fee rate structure in effect immediately prior to adoption of this Ordinance ~~and~~
3 shall apply provided a complete application for a building permit or certificate of use
4 (as applicable) is submitted (and all applicable application fees paid) by the close of
5 business on ~~February 13, 2015~~ December 14, 2015. If a complete application is not
6 submitted during this period, the property shall no longer be exempt and shall be
7 subject to the prevailing impact fee rates.

8 8. The exemption referenced herein is further subject to a condition that
9 the building permit or certificate of use must be issued by the Building Department
10 and all fees paid, within one hundred and eighty (180) days from the date of receipt
11 of a complete building permit/certificate of use application. If the permit or
12 certificate is not issued during this period, the application shall no longer be exempt
13 and shall be subject to the prevailing impact fee rates.

14 **Section 4. Severability.** It is declared to be the intent of the Board of County
15 Commissioners that if any section, subsection, clause, sentence, phrase, or provision of this
16 ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the
17 validity of the remaining portions of this ordinance.

18 **Section 5. Inclusion in the Code.** It is the intention of the Board of County Commissioners
19 of Hernando County, Florida, and it is hereby provided, that the provisions of this Ordinance shall
20 become and be made a part of the Code of Ordinances of Hernando County, Florida. To this end, the


1 sections of this Ordinance may be renumbered or relettered to accomplish such intention, and that
2 the word "ordinance" may be changed to "section," "article," or other appropriate designation.

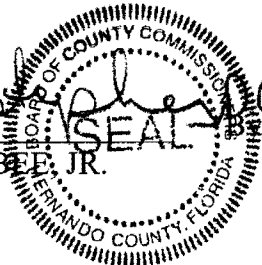
3 **Section 6. Conflicting Provisions Repealed.** All ordinances or parts of ordinances in
4 conflict with the provisions of this ordinance are hereby repealed.


5 **Section 7. Effective Date.** This ordinance shall take effect immediately upon receipt of
6 official acknowledgment from the office of the Secretary of State of Florida that this ordinance has
7 been filed with said office.

8 **BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF**
9 **HERNANDO COUNTY, FLORIDA** in Regular Session this 12th day of August, 2014.

10
11 **BOARD OF COUNTY COMMISSIONERS**
12 **HERNANDO COUNTY, FLORIDA**

13
14
15
16 Attest: 
17 DONALD C. BARBEE, JR.
18 Clerk



19
20
21 
22 WAYNE DUKES
23 Chairman

24 Approved for Form and Legal Sufficiency


Deputy County Attorney