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**HIGHLANDS COUNTY, FLORIDA**

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**IMPACT FEE ORDINANCE**

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**ADOPTED SEPTEMBER 5, 2006**

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ORDINANCE NO. 05-06 \_\_\_\_\_

AN ORDINANCE TO BE KNOWN AS THE HIGHLANDS COUNTY IMPACT FEE ORDINANCE; PROVIDING DEFINITIONS, RULES OF CONSTRUCTION AND FINDINGS; ADOPTING A CERTAIN IMPACT FEE STUDY; PROVIDING FOR THE IMPOSITION OF IMPACT FEES ON SPECIFIED NEW CONSTRUCTION OCCURRING IN THE COUNTY, BOTH WITHIN THE UNINCORPORATED AREA AND ALL MUNICIPAL AREAS OF HIGHLANDS COUNTY, FLORIDA, TO PAY FOR NEW CORRECTIONAL FACILITIES, LAW ENFORCEMENT CAPITAL NEEDS, FIRE RESCUE CAPITAL NEEDS, EMERGENCY MEDICAL SERVICES CAPITAL NEEDS, LIBRARIES, EDUCATION FACILITIES, AND TRANSPORTATION CAPACITY; DEFINING CONSTRUCTION; PROVIDING FOR THE CALCULATION AND USE OF IMPACT FEES COLLECTED; PROVIDING FOR AN ALTERNATIVE CALCULATION; PROVIDING FOR CREDITS FOR DEVELOPER CONTRIBUTIONS; PROVIDING FOR THE PAYMENT AND COLLECTION OF IMPACT FEES; PROVIDING FOR EXEMPTIONS FROM IMPACT FEES FOR CERTAIN HOUSING; PROVIDING A REMEDIAL COLLECTION METHODOLOGY FOR IMPACT FEES; PROVIDING FOR REVIEW HEARINGS; REQUIRING REVIEW OF THE IMPACT FEE STUDY AND IMPACT FEE ORDINANCE; DECLARATION OF EXCLUSION FROM ADMINISTRATIVE PROCEDURES ACT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR INCLUSION IN THE CODE.

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

ARTICLE I

PRELIMINARY MATTERS

SECTION 1.01. FINDINGS. It is hereby ascertained, determined and declared:

A. The County has determined that ad valorem tax revenue and other revenues will not be sufficient to provide the capital improvements and additions to the County's infrastructure, including its school system, which improvements and additions are necessary to accommodate future growth.

B. Part II of Chapter 163, Florida Statutes, requires the County to adopt a Comprehensive Plan containing a capital improvements element which considers the need and location of public facilities within its areas of jurisdiction and the projected revenue source which will be utilized to fund these facilities.

C. The implementation of impact fees to require future growth to contribute its fair share of the cost of growth necessitated capital improvements to the County's infrastructure, including its educational facilities, promotes the general welfare of the citizens of Highlands County. The provision of infrastructure adequate for the needs of growth is in the general welfare of all County residents and constitutes a public purpose.

D. The implementation of impact fees to require future growth to contribute its fair share of the cost of required capital improvements and additions is an integral and vital element of the regulatory plan of growth management in the County.

E. The projected need for capital improvements to the County's infrastructure and the allocation of projected costs between those necessary to serve existing development and those required to accommodate the needs of future growth as presented in the study entitled "Highlands County Impact Fee Study," dated September 1, 2006, is hereby approved and adopted by the County and that study is found to be consistent with the Comprehensive Plan of the County.

F. It is anticipated that interlocal agreements will be entered into between Highlands County, the School Board and the participating cities within Highlands County to assist in the imposition and implementation of impact fees within all areas of the County. The applicable interlocal agreements shall provide for the consistent collection and administration of impact fees throughout the County.

G. The required improvements and additions to the County's infrastructure needed to eliminate any existing deficiencies shall be financed by revenue sources other than impact fees.

H. The data set forth in the Impact Fee Study which was employed in the calculation of the Impact Fee rates imposed herein is the most recent and localized data available for the County.

#### **SECTION 1.02. RULES OF CONSTRUCTION.**

A. For the purposes of the administration and enforcement of this Ordinance, unless otherwise stated in this Ordinance, the following rules of Construction shall apply:

1. In case of any difference of meaning or implication between the text of this Ordinance and any caption, illustration, summary table, or illustrative table, the text shall control.

2. The word "shall" is always mandatory and not discretionary and the word "may" is permissive.

3. Words used in the present tense shall include the future; and words used in the singular shall include the plural and the plural the singular, unless the

context clearly indicates the contrary; use of the masculine gender shall include the feminine gender.

4. The phrase "used for" includes "arranged for," "designed for," "maintained for," or "occupied for."

5. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or" or "either . . . or," the conjunction shall be interpreted as follows:

(a) "And" indicates that all the connected terms, conditions, provisions or events shall apply.

(b) "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.

(c) "Either . . . or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

6. The word "includes" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.

7. All time periods contained within this Ordinance shall be calculated on a calendar day basis, including Sundays and legal holidays, but excluding the date of the decision in the event of an appeal. In the event the due date falls on a Sunday or legal holiday, the due date shall be extended to the next business day.

B. In calculating the amount due for an Impact Fee levied under this Ordinance and using the rate schedules set forth in Article II herein, the Net Impact Fee

for the appropriate land use category is multiplied by the number of Impact Fee Units contained in the subject proposed Construction.

**SECTION 1.03. DEFINITIONS.** When used in this Ordinance, the following terms shall have the following meaning, unless the context otherwise clearly requires:

**"Accessory Building or Structure"** shall mean a detached, subordinate building, the use of which is clearly indicated and related to the use of the principal Building or use of the land and which is located on the same lot as the principal Building or use.

**"Adjusted Gross Income"** shall mean all wages, assets, regular cash or noncash contributions or gifts from persons outside the household, and other such resources and benefits as may be determined to be income by the U.S. Department of Housing and Urban Development, adjusted for family size, less deductions allowable under Section 62 of the Internal Revenue Code.

**"Affordable Housing"** shall mean a Dwelling Unit which is offered for sale or rent to Low Income Persons or Very Low Income Persons and which monthly rent or monthly mortgage payments, including taxes, insurance and utilities, do not exceed 30 percent of that amount which represents the percentage of the median annual Adjusted Gross Income for Low Income Persons and Very Low Income Persons in Highlands County.

**"Alternative Impact Fee"** shall mean any alternative fee calculated by an Applicant and approved as provided either in Section in 2.07(F) or in Section 3.03 of this Ordinance.

**"Apartment"** shall mean a rental Dwelling Unit located within the same Building as other Dwelling Units.

**"Applicant"** shall mean the Person who applies for a Building Permit from a Permitting City or the County.

**"Board"** shall mean the Board of County Commissioners of Highlands County, Florida.

**"Building"** shall mean any structure, either temporary or permanent, designed or built for the support, enclosure, shelter or protection of persons, chattels or property of any kind, for use either as a dwelling or for a place of any kind of business or commerce. This term shall include trailers, mobile homes or any other vehicles serving in any way the function of a building. This term shall not include temporary Construction sheds or trailers erected to assist in Construction and maintained during the term of a Construction.

**"Building Permit"** shall mean an official document or certificate issued by the County or a City under the authority of ordinance or law, authorizing the citing of any Building and the commencement of those actions necessary to initiate, implement and complete work to create a Building. "Building Permit" shall also include tie-down permits for those structures or Buildings, such as a Mobile Home, that do not require a Building Permit in order to be constructed.

**"Certificate of Occupancy"** shall mean the official document or certificate issued by the County or a City under the authority of ordinance or law, authorizing the Construction or occupancy of any Building, or parts thereof, within a Construction. "Certificate of Occupancy" shall also include tie-down permits for those structures or

Buildings, such as a Mobile Home, that do not require a Certificate of Occupancy in order to be occupied.

**"Cities"** shall mean collectively and individually any or all incorporated municipalities within Highlands County.

**"Comprehensive Plan"** shall mean the Comprehensive Plan of the County adopted and amended pursuant to Part II, Chapter 163, Florida Statutes, as amended and supplemented, or its successor in function.

**"Condominium"** shall mean a Dwelling Unit that has at least one other similar unit within the same Building structure. The term "Condominium" includes all fee-simple or titled multi-unit structures, including townhouses and duplexes.

**"Construction"** shall mean any activity for which the County or a City requires a building permit.

**"County"** shall mean Highlands County, a political subdivision of the State of Florida.

**"County Administrator"** shall mean the chief administrative officer of the County or such person's designee.

**"Development"** shall mean any man-made change to improved or unimproved real estate, including, but not limited to, Buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of mineral.

**"Development Permit"** shall mean any Building Permit, Certificate of Occupancy, zoning approval, subdivision approval, rezoning, development order, special exception, variance, or any other official action of local government having the effect of permitting the development of land.

**" Dwelling Unit "** or **" D.U. "** shall mean a Building, or a portion thereof, which is designed for Residential occupancy, consisting of one or more rooms which are arranged, designed or used as living quarters for one family only.

**" Encumbered "** shall mean moneys committed by contract or purchase order in a manner that obligates the County to extend the Encumbered amount upon delivery of goods, the rendering of services or the conveyance of real property by a vendor, supplier, contractor or Owner.

**" Essential Services Personnel "** shall mean teachers, educators, police and fire personnel, health care workers, skilled building trades personnel, and disaster essential personnel, the total annual adjusted gross household income of which does not exceed 140% of the median annual Adjusted Gross Income for households within Highlands County, Florida, as reported by the U.S. Department of Housing and Urban Development or its governmental successor in function.

**" Housing for Older Persons "** shall mean Residential Dwelling Units that (1) are within a community or subdivision that is operated as Housing for Older Persons in compliance with the terms and provisions of the Federal Fair Housing Act, Title VIII of the Civil Rights Acts of 1968, as amended by the Fair Housing Amendments Act of 1988 and the Housing for Older Persons Act of 1995, 42 U.S.C. §§ 3601-19, or its statutory successor in function; and (2) prohibit any person under the age of 18 years of age from residing within any Dwelling Unit on the property as a permanent resident, as evidenced by a recorded declaration of covenants and restrictions that runs with the land and is not subject to revocation or amendment for a period of at least 30 years from the date of recording.

**"Impact Fee Construction"** shall mean any Construction for which an Impact Fee is owed.

**"Impact Fee Study"** shall mean the study adopted pursuant to Section 1.04, as amended and supplemented pursuant to Section 3.06 herein.

**"Impact Fee Unit"** shall mean the unit of measurement in an impact fee schedule set forth in this Ordinance, where the number of Impact Fee Units on proposed Construction are multiplied by the Net Impact Fee to produce the amount of an impact fee to levied on an Impact Fee Construction.

**"Low Income Persons"** shall mean one or more natural persons or a family, the total annual adjusted gross household income of which does not exceed 80% of the median annual Adjusted Gross Income for households within Highlands County, Florida, as reported by the U.S. Department of Housing and Urban Development or its governmental successor in function.

**"M.A.I. Appraiser"** shall mean a member of the American Institute of Real Estate Appraisers.

**"Mobile Home"** shall mean a structure transportable in one (1) or more sections, which structure is eight (8) body feet or more in width and over thirty-five (35) feet in length, and which structure is built on an integral chassis and designed to be used as a Dwelling Unit when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

**"Moderate Income Persons"** shall mean one or more natural persons or a family, the total annual adjusted gross household income of which is less than 120% of the median annual Adjusted Gross Income for households within Highlands County,

Florida, as reported by the U.S. Department of Housing and Urban Development or its governmental successor in function.

**"Multi-Family Dwelling Unit"** shall mean a Building or a portion of a Building, regardless of ownership, containing more than one Dwelling Unit designed for occupancy by a single family, which units are not customarily offered for rent for one day, and shall include Apartments and Condominiums.

**"Net Impact Fee"** shall mean the impact fee per Impact Unit as shown in the appropriate column of a table setting out an impact fee schedule. The Net Impact Fee is the number to be multiplied by the numbers of Impact Fee Units in a proposed Construction to derive the actual impact fee due for any particular Construction.

**"Non-Residential"** includes Commercial land uses as well as any land use or construction not included in the definition of Residential.

**"Owner"** shall mean the Person holding legal title to the real property upon which Construction is to be built.

**"Permitting City"** shall mean, individually and collectively, those Cities that undertake the issuance of Development Permits for properties within their jurisdictional boundaries and, therefore, do not rely on the County to perform permitting functions for properties within their municipal boundaries.

**"Person"** shall mean an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

**"Residential"** shall mean Multi-Family Dwelling Units, Mobile Homes, Retirement Community/Age-Restricted Single Family dwellings, and Single-Family Detached Houses.

**"Retirement Community/Age-Restricted Single Family"** shall mean a Residential land use that is also Housing for Older Persons.

**"School Board"** shall mean the School Board of Highlands County, Florida.

**"Single-Family Detached House"** shall mean a Dwelling Unit on an individual lot, including a detached house on a lot less than 50 feet wide, such as a zero lot line home and a manufactured home and that is not age restricted as to its occupants.

**"Superintendent"** shall mean the chief administrative officer of the Public Schools, as elected pursuant to section 1001.46, Florida Statutes.

**"Time-Share Property"** shall mean the facilities and accommodations offered in a time-share plan that are classified as time-share estates and time-share licenses as those terms are defined in Chapter 721, Florida Statutes.

**"Very Low Income Persons"** shall mean one or more natural persons or a family, not including students, the total annual adjusted gross household income of which does not exceed 50% of the median annual Adjusted Gross Income for households within Highlands County, Florida, as reported by the U.S. Department of Housing and Urban Development or its governmental successor in function.

**"Workforce Housing"** shall mean a Dwelling Unit which is offered for sale or rent to Moderate Income Persons or Essential Services Personnel and which monthly rent or monthly mortgage payments, including taxes, insurance and utilities, do not exceed 30 percent of that amount which represents the percentage of the median annual Adjusted Gross Income for Moderate Income Persons and Essential Services Personnel in Highlands County.

**SECTION 1.04. ADOPTION OF IMPACT FEE STUDY.** The Board hereby adopts and incorporates by reference, the study entitled "Highlands County Impact Fee Study," dated June 20, 2006, hereinafter the "Impact Fee Study," including the assumptions, conclusions and findings in such study as to the determination of anticipated costs to the County and to the Highlands County School Board required to accommodate growth.

**ARTICLE II**

**IMPOSITION OF IMPACT FEES**

**SECTION 2.01. CORRECTIONAL FACILITY IMPACT FEES.**

A. All Residential Construction occurring within the County, both inside and outside incorporated areas of the County, shall pay the Correctional Facilities Impact Fee, as established in this Article.

B. Subject to Section 2.09 herein, on and after the effective date of this Article, all Residential Construction within the County, including Residential Construction inside and outside incorporated municipalities, shall pay impact fees according to the following table:

**Correctional Facility Impact Fee Schedule**

<b>Land Use</b>	<b>Impact Fee Unit</b>	<b>Net Impact Fee</b>
<b>Residential</b>		
Single Family Detached		
- 0 to 1,500 sf	du	\$608.38
- 1,501 to 2,499 sf	du	\$684.43
- 2,500 sf or greater	du	\$745.27
Multi Family	du	\$474.54
Mobile Home Park	du	\$389.36
Retirement Community/Age-Restricted Single Family	du	\$404.57

C. At least ninety days prior to January 1 of each year following the year this Ordinance becomes effective, the Board shall adopt an Annual Correctional Facility Impact Fee Index Resolution. Such Resolution shall set forth adjusted Correctional Facility Impact Fee rates for the Correctional Facility Impact Fee Land Use Categories reflecting changes in the cost of impact fee components for the upcoming calendar year as calculated using the Correctional Facilities Indexing Application set forth in Article XII and Table XII-5 of the Impact Fee Study.

D. There is hereby established the Correctional Facility Impact Fee Trust Fund. All Correctional Facility Impact Fees collected pursuant to this Ordinance shall be deposited in this fund. Monies in the Correctional Facility Impact Fee Trust Fund may only be used for Correctional Facilities in the manner specific in Section 3.04 herein.

**SECTION 2.02. LAW ENFORCEMENT IMPACT FEE.**

A. All Residential Construction occurring within the unincorporated areas of the County shall pay the Law Enforcement Impact Fee, as established in this Article.

B. Subject to Section 2.09 herein, on and after the effective date of this Article, all Residential Construction within the unincorporated areas of the County, shall pay the Law Enforcement Impact Fee according to the following table:

**Law Enforcement Impact Fee Schedule**

<b>Land Use</b>	<b>Impact Fee Unit</b>	<b>Net Impact Fee</b>
<b>Residential</b>		
Single Family Detached		
- 0 to 1,500 sf	du	\$205.18
- 1,501 to 2,499 sf	du	\$230.43
- 2,500 sf or greater	du	\$251.48
Multi Family	du	\$154.67
Mobile Home Park	du	\$134.68
Retirement Community/Age-Restricted Single Family	du	\$135.73

C. At least ninety days prior to January 1 of each year following the year this Ordinance becomes effective, the Board shall adopt an Annual Law Enforcement Impact Fee Index Resolution. Such Resolution shall set forth adjusted Law Enforcement Impact Fee rates for the Law Enforcement Impact Fee Land Use Categories reflecting changes in the cost of impact fee components for the upcoming calendar year as calculated using the Law Enforcement Indexing Application set forth in Article XII and Table XII-6 of the Impact Fee Study.

D. There is hereby established the Law Enforcement Impact Fee Trust Fund. All Law Enforcement Impact Fees collected pursuant to this Ordinance shall be deposited in this fund. Monies in the Law Enforcement Impact Fee Trust Fund may only be used for Law Enforcement purposes in the manner specified in Section 3.04 herein.

**SECTION 2.03. FIRE RESCUE IMPACT FEE.**

A. All Construction occurring within the unincorporated area of the County and within the Town of Lake Placid shall pay the Fire Rescue Impact Fee as established in this Article.

B. Subject to Section 2.09 herein, on and after the effective date of this Article, all Construction occurring within the unincorporated area of County and all Construction inside the Town of Lake Placid, shall pay the Fire Rescue Impact Fee according to the following table:

### Fire Rescue Impact Fee Schedule

Land Use	Impact Fee Unit	Net Impact Fee
<b>Residential</b>		
Single Family Detached		
– 0 to 1,500 sf	du	\$619.72
– 1,501 to 2,499 sf	du	\$694.44
– 2,500 sf or greater	du	\$760.37
Multi Family	du	\$479.08
Mobile Home Park	du	\$404.36
Retirement Community/Age-Restricted Single Family	du	\$413.15
<b>Transient, Assisted, Group</b>		
Hotel/Motel	room	\$294.48
Nursing Home/ALF	bed	\$421.94
<b>Recreational</b>		
General Recreation/County Park	acre	\$87.90
Golf Course	hole	\$474.68
Movie Theater with Matinee	screen	\$2,628.33
Racquet Club/Health Club/Spa/Dance Studio	1,000sf	\$1,358.12
<b>Institutions</b>		
Hospital	1,000sf	\$725.21
Church	1,000sf	\$250.53
Day Care Center	1,000sf	\$391.17
Elementary School	Student	\$26.37
Middle School	Student	\$30.77
High School	Student	\$35.16
Junior/Community College	Student	\$26.37
University/College	Student	\$57.14
<b>Office</b>		
Office 50,000 SF or less	1,000sf	\$734.00
Office 50,001 - 100,000 SF	1,000sf	\$566.98
Office 100,001 - 200,000 SF	1,000sf	\$483.47
Office 200,001 - 400,000 SF	1,000sf	\$413.15
Office greater than 400,000 SF	1,000sf	\$351.62
Medical Office/Clinic	1,000sf	\$755.97
Business Park	1,000sf	\$443.92
<b>Retail, Gross Square Feet</b>		
Specialty Retail	1,000sf	\$742.79
Retail 50,000 GSF or less	1,000sf	\$1,261.42
Retail 50,001 GSF to 200,000 GSF	1,000sf	\$1,028.48
Retail 200,001 GSF to 400,000 GSF	1,000sf	\$1,098.80
Retail greater than 400,000 GSF	1,000sf	\$940.57
Pharmacy/Drug Store w/ Drive-Thru	1,000sf	\$861.46

<b>Land Use</b>	<b>Impact Fee Unit</b>	<b>Net Impact Fee</b>
Home Improvement Superstore	1,000sf	\$782.35
Quality Restaurant	1,000sf	\$2,997.53
High-Turnover Restaurant	1,000sf	\$3,107.41
Fast Food Restaurant w/ Drive-Thru	1,000sf	\$3,960.08
Quick Lube	bay	\$509.84
Supermarket	1,000sf	\$901.02
Gas/Service Station	fuel pos.	\$870.25
Convenience Store w/Gas Pumps	1,000sf	\$2,637.12
Convenience/Gas/Fast Food	1,000sf	\$3,142.57
Auto Repair or Body Shop	1,000sf	\$1,296.58
New and Used Car Sales	1,000sf	\$751.58
Car Wash	1,000sf	\$668.07
Furniture Store	1,000sf	\$140.65
Bank/Savings Walk-in	1,000sf	\$1,129.57
Bank/Savings Drive-in	1,000sf	\$1,041.66
<b>Industrial</b>		
General Industrial/Industrial Park	1,000sf	\$303.27
Manufacturing	1,000sf	\$219.76
Warehouse	1,000sf	\$171.41
Mini-Warehouse	1,000sf	\$30.77

B. At least ninety days prior to January 1 of each year following the year this Ordinance becomes effective, the Board shall adopt an Annual Fire Rescue Impact Fee Index Resolution. Such Resolution shall set forth adjusted Fire Rescue Impact Fee rates for the Fire Rescue Impact Fee Land Use Categories reflecting changes in the cost of impact fee components for the upcoming calendar year as calculated using the Fire Rescue Indexing Application set forth in Article XII and Table XII-7 of the Impact Fee Study.

D. There is hereby established the Fire Rescue Impact Fee Trust Fund. All Fire Rescue Impact Fees collected pursuant to this Ordinance shall be deposited in this fund. Monies in the Fire Rescue Impact Fee Trust Fund may only be used for Fire Rescue purposes in the manner specified in Section 3.04 herein.

**SECTION 2.04. EMERGENCY MEDICAL SERVICES ("EMS") IMPACT FEE.**

A. All Construction occurring within the County, both inside and outside incorporated areas of the County, shall pay the EMS Impact Fee, as established in this Article.

B. Subject to Section 2.09 herein, on and after the effective date of this Article, all Construction within the County, including Construction inside and outside incorporated municipalities, shall pay the EMS Impact Fee according to the following table:

**EMS Impact Fee Schedule**

<b>Land Use</b>	<b>Impact Fee Unit</b>	<b>Net Impact Fee</b>
<b>Residential</b>		
Single Family Detached		
- Less than 1,500 sf	du	\$57.02
- 1,500 to 2,499 sf	du	\$64.15
-2,500 sf or greater	du	\$69.70
Multi Family	du	\$44.35
Mobile Home Park	du	\$36.43
Retirement Community/Age-Restricted Single Family	du	\$38.02
<b>Transient, Assisted, Group</b>		
Hotel/Motel	room	\$26.53
Nursing Home/ALF	bed	\$38.02
<b>Recreational</b>		
General Recreation/County Park	acre	\$7.92
Golf Course	hole	\$42.77
Movie Theater with Matinee	screen	\$236.81
Racquet Club/Health Club/Spa/Dance Studio	1,000sf	\$122.36
<b>Institutions</b>		
Hospitals	1,000sf	\$65.34
Church	1,000sf	\$22.57
Day Care Center	1,000sf	\$35.24
Elementary School	Student	\$2.38
Middle School	Student	\$2.77
High School	Student	\$3.17
Junior/Community College	Student	\$2.38
University/College	Student	\$5.15
<b>Office</b>		
Office 50,000 sf or less	1,000sf	\$66.13
Office 50,001 - 100,000 sf	1,000sf	\$51.08
Office 100,001 - 200,000 sf	1,000sf	\$43.56

<b>Land Use</b>	<b>Impact Fee Unit</b>	<b>Net Impact Fee</b>
Office 200,001 - 400,000 sf	1,000sf	\$37.22
Office greater than 400,000 sf	1,000sf	\$31.68
Medical Office/Clinic	1,000sf	\$68.11
Business Park	1,000sf	\$40.00
<b>Retail, Gross Square Feet</b>		
Specialty Retail	1,000sf	\$66.92
Retail 50, 000 GSF or less	1,000sf	\$113.65
Retail 50,001 GSF to 200,000 GSF	1,000sf	\$92.66
Retail 200,001 GSF to 400,000 GSF	1,000sf	\$99.00
Retail greater than 400,000 GSF	1,000sf	\$84.74
Pharmacy/Drug Store w/Drive-Thru	1,000sf	\$77.62
Home Improvement Superstore	1,000sf	\$70.49
Quality Restaurant	1,000sf	\$270.07
High-Turnover Restaurant	1,000sf	\$279.97
Fast Food Rest w/Drive-Thru	1,000sf	\$356.80
Quick Lube	bay	\$45.94
Supermarket	1,000sf	\$81.18
Gas/Service Station	fuel pos.	\$78.41
Convenience Store w/Gas Pumps	1,000sf	\$237.60
Convenience/Gas/ Fast Food	1,000sf	\$283.14
Auto Repair or Body Shop	1,000sf	\$116.82
New and Used Car Sales	1,000sf	\$67.72
Car Wash	1,000sf	\$60.19
Furniture Store	1,000sf	\$12.67
Bank/Savings Walk-in	1,000sf	\$101.77
Bank/Savings Drive-in	1,000sf	\$93.85
<b>Industrial</b>		
General Industrial/Industrial Park	1,000sf	\$27.32
Manufacturing	1,000sf	\$19.80
Warehouse	1,000sf	\$15.44
Mini-Warehouse	1,000sf	\$2.77

C. At least ninety days prior to January 1 of each year following the year this Ordinance becomes effective, the Board shall adopt an Annual Emergency Medical Services Impact Fee Index Resolution. Such Resolution shall set forth adjusted EMS Impact Fee rates for the EMS Impact Fee Land Use Categories reflecting changes in the cost of impact fee components for the upcoming calendar year as calculated using the EMS Indexing Application set forth in Article XII and Table XII-8 of the Impact Fee Study.

D. There is hereby established the EMS Impact Fee Trust Fund. All EMS Impact Fees collected pursuant to this Ordinance shall be deposited in this fund.

Monies in the EMS Impact Fee Trust Fund may only be used in for EMS purposes in the manner specified in Section 3.04 herein.

**SECTION 2.05. LIBRARY IMPACT FEE.**

A. All Residential Construction occurring within the County, both inside and outside incorporated areas of the County, shall pay the Library Impact Fee, as established in this Article.

B. Subject to Section 2.09 herein, on and after the effective date of this Article, all Residential Construction within the County, including Construction inside and outside incorporated municipalities, shall pay the Library Impact Fee according to the following table:

**Library Impact Fee Schedule**

<b>Residential Land Use</b>	<b>Impact Fee Unit</b>	<b>Net Impact Fee</b>
Single Family Detached		
- Less than 1, 500 sf	du	\$217.44
- 1,500 to 2,499 sf	du	\$244.62
- 2,500 and greater	du	\$266.36
Multi-Family	du	\$169.60
Mobile Home Park	du	\$139.16
Retirement Community/Age-Restricted Single Family	du	\$144.60

C. At least ninety days prior to January 1 of each year following the year this Ordinance becomes effective, the Board shall adopt an Annual Library Impact Fee Index Resolution. Such Resolution shall set forth adjusted Library Impact Fee rates for the Library Impact Fee Land Use Categories reflecting changes in the cost of impact fee components for the upcoming calendar year as calculated using the Library Indexing Application set forth in Article XII and Table XII-9 of the Impact Fee Study.

D. There is hereby established the Library Impact Fee Trust Fund. All Library Impact Fees collected pursuant to this Ordinance shall be deposited in this fund. Monies in the Library Impact Fee Trust Fund may only be used for the County Library system in the manner specified in Section 3.04 herein.

**SECTION 2.06. PARKS AND RECREATION IMPACT FEE.**

A. All Residential Construction occurring within the County, both inside and outside incorporated areas of the County, shall pay the Parks and Recreation Impact Fee, as established in this Article.

B. Subject to Section 2.09 herein, on and after the effective date of this Article, all Residential Construction within the County, including Construction inside and outside incorporated municipalities, shall pay the Parks and Recreation Impact Fee according to the following table:

**Parks and Recreation Impact Fee Schedule**

<b>Land Use</b>	<b>Impact Fee Unit</b>	<b>Net Impact Fee</b>
Single Family Detached		
- Less than 1,500 sf	du	\$672.98
- 1,500 to 2,499 sf	du	\$757.10
- 2,500 sf and greater	du	\$824.40
Multi-Family	du	\$524.92
Mobile Home Park	du	\$430.71
Retirement Community/Age-Restricted Single Family	du	\$447.53

C. The county is hereby divided into three Parks and Recreation Impact Fee Benefit Districts ("PRIFBD"), whose borders are defined in Map VIII-1 of the Impact Fee Study. The three districts are the Avon Park District, the Sebring District, and the Lake Placid District.

D. At least ninety days prior to January 1 of each year following the year this Ordinance becomes effective, the Board shall adopt an Annual Parks and Recreation

Impact Fee Index Resolution. Such Resolution shall set forth adjusted Parks and Recreation Impact Fee rates for the Parks and Recreation Impact Fee Land Use Categories reflecting changes in the cost of impact fee components for the upcoming calendar year as calculated using the Parks and Recreation Indexing Application set forth in Article XII and Table XII-10 of the Impact Fee Study.

E. There is hereby established the Parks and Recreation Impact Fee Trust Fund. All Parks and Recreation Impact Fees collected pursuant to this Ordinance shall be deposited in this fund. Within this Trust Fund are hereby established three accounts, the Avon Park Account, the Sebring Account, and the Lake Placid Account, corresponding to the three PRIFBD. Parks and Recreation Impact Fees collected in each PRIFBD must be deposited in the corresponding account and may only be used within the PRIFBD from which collected for Parks and Recreation purposes and only in the manner prescribed in Section 3.04 herein, subject to Section 2.06(F) herein.

F. Funds from one account within the Parks and Recreation Impact Fee Trust Fund may be used for park purposes in another PRIFD where (1) the County Administrator demonstrates and makes written findings supporting (a) that the park purpose for which the funds are proposed to be used is attributable to demand generated in the PRIFD from which account the monies are to be used and (b) that the proposed park purpose will benefit the PRIFD from whose account monies are taken, and (2) the Board adopts a resolution incorporating the County Administrator's findings.

**SECTION 2.07. EDUCATION FACILITIES IMPACT FEE.**

A. In addition to the findings in Section 1.01 and definitions set forth in Section 1.03 of this Ordinance, the Board hereby makes these additional findings

concerning the need for Educational Facilities Impact Fees and modifies a definition for use as to Educational Facilities Impact Fees.

1. Pursuant to section 1013.33, Florida Statutes, the School Board and the County are required to coordinate the planning of Educational Facilities with the planning of Construction and the providing of other necessary services. Moreover, section 1013.33(10), Florida Statutes, requires Educational Facilities to be consistent with the Comprehensive Plan.

2. The requirement of the donation of a school site as a condition of approval of a development phase is intended to provide adequate land for school facilities needed by the contemplated residential development approved and such exaction bears a rational nexus to such need.

3. The requirement for the dedication of a school site as a condition of development approval is a reasonable requirement permitting the landowner to engage in the business of subdividing land.

4. The imposition of a school impact fee countywide is a rational regulation of growth to ensure that the school facilities needed by growth are provided on a timely basis to accommodate new residential development.

5. Determination of the amount of a school impact fee credit for a donated school site that was required as a condition of development approval by an appraisal methodology based on the fair market value of the donated site if developed and used not as a school site but in a manner consistent with other parcels as approved within the development ignores the regulatory consequence that the development was permitted only if such donation was made. As a consequence, such donated land

would never receive the enhanced value resulting from the development approval precisely because its use was limited to a school site. Such appraisal methodology also undermines the regulation of growth by diminishing the fair share contribution of residentially developed parcels within the development to fund the capital improvements needed to accommodate growth under the methodology used to develop the Impact Fee Study.

6. Under the methodology used to develop the Impact Fee Study, granting a school impact fee credit for the value of donated land for a school site within a development in excess of the land valuation standard set forth adopted in Section 2.07(1)(7) diminishes the fair share contribution needed from residential units within a development to fund the capital improvements needed to accommodate growth caused by the development when compared to other residential units.

7. The State of Florida now requires school districts to have financially feasible capital improvement element and Impact Fees are the best means to assist the School District in achieving financial feasibility.

8. The term "Dwelling Unit," for purposes of this Section 2.07 and the Educational Facilities Impact Fee, does not include Time Share or Assisted Living Facilities.

B. This Article also establishes the procedures to be followed to apply for an Alternative Impact Fee Calculation for the Education Facilities Impact Fee, provides for an exemption from the Education Facilities Impact Fee for Housing for Older Persons, and specifies the methodology to value land offered to the School District as a credit for the Education Facilities Impact Fee.

C. All Residential Construction occurring within the County, both inside and outside incorporated areas of the County, shall pay the Education Facilities Impact Fee, as established in this Article.

D. Subject to Section 2.09 herein, on and after the effective date of this Article, all Residential Construction within the County, including Construction inside and outside incorporated municipalities, shall pay the Education Facilities Impact Fee according to the following table:

**School Impact Fee Schedule**

<b>Residential Land Use</b>	<b>Impact Fee Unit</b>	<b>Net Impact Fee</b>
Single Family Detached		
Less than 1,500 square feet	du	\$5,176
1,500 - 2,499 square feet	du	\$5,801
Greater than 2,500 square feet	du	\$6,292
Multi-family	du	\$3,748
Mobile-Home	du	\$4,440

E. At least ninety days prior to January 1 of each year following the year this Ordinance becomes effective, the Board shall adopt an Annual Education Facilities Impact Fee Index Resolution. Such Resolution shall set forth adjusted Education Facilities Impact Fee rates for the Education Facilities Impact Fee Land Use Categories reflecting changes in the cost of impact fee components for the upcoming calendar year as calculated using the Schools Indexing Application set forth in Article XII and Table XII-12 of the Impact Fee Study.

F. There is hereby established the Education Facilities Impact Fee Trust Fund. All Education Facilities Impact Fees collected pursuant to this Ordinance shall be deposited in this fund. Monies in the Education Facilities Impact Fee Trust Fund

may only be used for Educational Facilities in the manner specified in Section 3.04 herein.

G. Notwithstanding the provisions of Section 4.01 herein, the following standards govern the application and consideration for Alternative Impact Fee Calculations for the Educational Facilities Impact Fee:

1. In the event an Applicant believes that the impact to the Education Facilities necessitated by Residential Construction is less than the fee established in this Section 2.07, such Applicant may, prior to issuance of a Building Permit for such Residential Construction, submit a calculation of an Alternative Education Facilities Impact Fee. Consistent with the Florida case law requirements for a valid Education Facilities Impact Fee and the mandate for the provision of a uniform system of free public schools in Article IX, section 1, Florida Constitution, any determination of a lesser impact to the school system necessitated by Residential Construction under the Alternative Education Facilities Impact Fee calculation process provided in this subsection shall not be based on the projected or current use of the Residential Construction but shall solely be based on a consideration that the permanent physical characteristics or limitations of the Dwelling Units within the Residential Construction will generate less students initially and during their useful life than the student generation assumptions utilized in the Impact Fee Study.

2. The proposed Alternative Education Facilities Impact Fee shall be submitted to the County which, after consultation with the Superintendent, shall review the calculations and mail a written determination to the Applicant within sixty (60)

calendar days of submittal as to whether such calculation complies with the requirements of this Section.

3. If the County, after consultation with the Superintendent, determines that the data, information and assumptions utilized by the Applicant to calculate the Alternative Education Facilities Impact Fee complied with the requirements of this Section and that the calculation of the Alternative Education Facilities Impact Fee was by a generally accepted methodology, then the Alternative Education Facilities Impact Fee shall be paid in lieu of the fee set forth in this Section 2.07. The Applicant shall present the written determination approving the Alternative Education Facilities Impact Fee at the time of payment of the Education Facilities Impact Fee. Copies of the written determination shall be provided to the governing entity which would issue the subject Building Permit.

4. If the County, after consultation with the Superintendent, determines that the data, information and assumptions utilized by the Applicant to calculate the Alternative Education Facilities Impact Fee do not comply with the requirements of this Section or that the calculation of the Alternative Education Facilities Impact Fee was not by a generally accepted methodology, then the Alternative Education Facilities Impact Fee shall be rejected. Such rejection shall be in writing and set forth the reasons therefore and shall be provided to the Applicant by certified mail. The Applicant shall have thirty (30) calendar days from the receipt of written notification of rejection to request an appeal of the rejection pursuant to the provisions of this subsection.

5. An appeal of any determination regarding the Alternative Impact Fee shall be conducted in accordance with the provisions of Section 4.05, herein. Any denial of a proposal or application for an Alternative Impact Fee under this Section 2.07 shall be considered a denial by the County and not the School District, and shall not be considered Final Agency Action of the School District to trigger any rights under Chapter 120, Florida Statutes.

H. In addition to any exemption available under Section 4.01 herein, Residential Construction that qualifies as Housing for Older Persons shall be exempt from payment of the Education Facilities Impact Fee as provided in this subsection:

1. Any Person seeking a Housing for Older Persons exemption shall file with the County Administrator an Application for Exemption prior to receiving a Building Permit for the proposed Residential Construction. The Application for Exemption shall contain the following:

- (a) The name and address of the Owner;
- (b) The legal description of the Residential Construction;
- (c) Evidence that the Residential Construction is within a community or subdivision that is operated as Housing for Older Persons in compliance with the terms and provisions of the Federal Fair Housing Act, Title VIII of the Civil Rights Acts of 1968, as amended by the Fair Housing Amendments Act of 1988 and the Housing for Older Persons Act of 1995, 42 U.S.C. §§ 3601-19, or its statutory successor in function; and
- (d) A copy of the recorded declaration of covenants and restrictions that run with the land, cannot be revoked or amended for a period of at least

30 years from recording, and that prohibit any person under the age of 18 years of age from residing within any Dwelling Unit on the property as a permanent resident.

2. If the Residential Construction meets the requirements for a Housing for Older Persons exemption, the County Administrator shall issue an exemption. The exemption shall be presented in lieu of payment of the Education Facilities Impact Fee.

3. The amount of the Education Facilities Impact Fee shall not be increased to replace any revenue lost due to the Housing for Older Persons Exemption.

4. In the event the recorded declaration of covenants and restrictions is breached or otherwise modified within the 30-year period following recording such that persons under the age of 18 are allowed to reside as permanent residents in any Residential Dwelling Unit receiving a Housing for Older Persons exemption, the Education Facilities Impact Fee in effect at the time of the change in circumstances shall be due immediately and collected by any method available to the County for collecting monies owed to it.

5. If the County Administrator determines that the proposed Residential Construction does not meet the requirements for a Housing for Older Persons exemption, the Applicant or Owner shall have the right to a review hearing as provided in Section 4.05 herein.

I. In addition to any provision contained in Section 4.01 herein, a credit shall be granted against the Education Facilities Impact Fee imposed by this Section 2.07 for the donation of a parcel of land reasonably useful to the School District, or for the construction of an improvement or addition to the Education Facilities that is required

pursuant to a Development Permit or made voluntarily in connection with Residential Construction. Such donations or constructions shall be subject to the approval and acceptance of the County Administrator after consultation with the Superintendent. No credit shall be given for the donation of land or construction unless such property is conveyed, in fee simple, to the School Board without consideration.

1. Prior to issuance of a Building Permit the Applicant shall submit a proposed plan for donations, improvements, or contributions to the Education Facilities to the County Administrator. The proposed plan shall include:

(a) a designation of the Residential Construction for which the plan is being submitted;

(b) a legal description of any land proposed to be donated and a written appraisal prepared in conformity with Section 2.07(I)(7) of this Ordinance;

(c) a list of the contemplated contributions, improvements, or donation to the Education Facilities and an estimate of the proposed construction costs certified by a professional architect or engineer; and

(d) a proposed time schedule for completion of the proposed plan; and

(e) a certification that the Applicant has consulted with the Superintendent and has verified that the proposed donation, improvement, or contribution is or is not included in the School Board's capital improvement plan, the adopted Public Schools Facility Element of the County's Comprehensive Plan, or equivalent binding planning document.

2. Within ten (10) days after receipt, the County Administrator shall forward the proposed plan to the Superintendent for review and recommendation. The Superintendent shall provide a recommendation to the County Administrator within thirty (30) days of receipt. After reviewing the Superintendent's recommendation, the County Administrator shall approve or deny the proposed plan in accordance with subsection (4) of this Section and, if approved, establish the amount of credit in accordance with Section 2.07(I)(7) of this Ordinance. The County Administrator shall issue a decision within sixty (60) days after the filing of the proposed plan.

3. In reviewing the proposed plan, the County Administrator shall determine in consultation with the Superintendent:

(a) if such proposed plan is in conformity with contemplated improvements and additions to the School Board's capital improvement plan, the adopted Public Schools Facility Element of the County's Comprehensive Plan, or equivalent binding planning document, and if not, whether the proposed plan should be included in the same;

(b) if the proposed donation of land and construction by the Applicant is consistent with the public interest; and

(c) if the proposed time schedule is consistent with the School Board's capital improvement program for the Education Facilities.

4. If a proposed plan is approved for credit by the County Administrator after consultation with the Superintendent, the Applicant or Owner, the Board, and the School Board shall enter into a credit agreement which shall provide for

the timing of the action to be taken by the Applicant and the obligations and responsibilities of the Applicant, including, but not limited to:

(a) The timing of actions to be taken by the Applicant and the obligations and responsibilities of the Applicant, including, but not limited to, the construction standards and requirements to be complied with;

(b) The obligations and responsibilities of the Board and School Board, including but not limited to inspection of the project; and

(c) The amount of the credit as determined in accordance with Sections 2.07(G) and 2.07(I) herein.

5. A credit for the donation of land shall be granted at such time as the property which is the subject of the donation has been conveyed to and accepted by the School Board. A credit for the construction of an improvement or addition to the Education Facilities shall be granted at such time as the construction is completed, approved and accepted by the School Board. The administration of said contribution credits shall be the responsibility of the Superintendent after said credits have been approved by the County Administrator.

6. Any Applicant or Owner who submits a proposed plan pursuant to this Section and desires the immediate issuance of a Building Permit prior to approval of the proposed plan shall pay the applicable Education Facilities Impact Fee pursuant to this Section 2.07. Any difference between the amount paid and the amount due, should the County Administrator approve and accept the proposed plan, shall be refunded to the Applicant or Owner. The administration of such refunds shall be the responsibility of the Superintendent.

7. The amount of the school impact fee credit granted under this Section 2.07 for any donation of land and construction provided in a plan approved under this Section 2.07 shall be determined as provided in this subsection. The value of donated land shall be based upon a written appraisal prepared by an M.A.I. Appraiser who was selected from a list of approved appraisers provided by the School Board and paid by the person seeking the credit, and who used generally accepted appraisal techniques. The valuation standard utilized by the M.A.I. Appraiser shall be the fair market value of the donated land as unimproved property prior to the development approval requiring the donation with its highest and best use being determined without any consideration of any enhanced value of the donated land resulting from approval by the County of the residential development with respect to which the land donation constituted a condition of development approval. Such market value shall be determined as of the submission date of the plan to the County Administrator.

**SECTION 2.08. TRANSPORTATION IMPACT FEE.**

A. All Construction occurring within the County, both inside and outside incorporated areas of the County, shall pay the Transportation Impact Fee, as established in this Article.

B. The County is hereby divided into three Transportation Impact Fee Benefit Districts ("TIFBD"), whose borders are defined in Map F-1 of the Impact Fee Study. The three districts are the Avon Park District, the Sebring District, and the Lake Placid District.

C. Subject to Section 2.09 herein, on and after the effective date of this Article, all Construction within the County, including Construction inside and outside

incorporated municipalities, shall pay the Transportation Impact Fee according to the following table:

### Transportation Impact Fee Schedule

ITE LUC	Land Use	Impact Fee Unit	Net Impact Fee
<b>Residential</b>			
210	Single Family (Detached)		
	0 to 1,500 sf	du	\$4,886
	1,501 to 2,499 sf	du	\$6,594
	2,500 sf and greater	du	\$7,718
220	Multi-Family	du	\$4,678
240	Mobile Home Park	du	\$3,019
250	Retirement Community/Age-Restricted Single Family	du	\$2,104
<b>Lodging</b>			
310	Hotel	room	\$4,884
320	Motel	room	\$2,621
<b>Recreation</b>			
412	General Recreation/County Park	acre	\$1,243
430	Golf Course	hole	\$33,016
444	Movie Theater w/Matinee	screen	\$28,520
492	Racquet Club/Health Spa	1,000sf	\$18,705
<b>Institutions</b>			
610	Hospital	1,000sf	\$9,721
560	Church	1,000sf	\$4,480
620	Nursing Home	bed	\$791
565	Day Care Center	1,000sf	\$15,086
520	Elementary School	student	\$618
522	Middle School	student	\$878
530	High School	student	\$935
540	Junior/Community College	student	\$1,059
550	University/College	student	\$2,097
<b>Office</b>			
710	50,000 SF or less	1,000sf	\$12,380
710	50,001 - 100,000 SF	1,000sf	\$9,613
710	100,001 - 200,000 SF	1,000sf	\$8,197
710	200,001 - 400,000 SF	1,000sf	\$6,983
710	Greater than 400,000 SF	1,000sf	\$5,960
720	Medical Office/Clinic	1,000sf	\$24,840
770	Business Park	1,000sf	\$8,788
<b>Retail</b>			
814	Specialty Retail	1,000sf	\$20,207
820	Retail		
820	50,000 GSF or less	1,000sf	\$12,153
820	50,001 - 200,000 GSF	1,000sf	\$9,821
820	200,001 - 400,000 GSF	1,000sf	\$9,691

<b>ITE LUC</b>	<b>Land Use</b>	<b>Impact Fee Unit</b>	<b>Net Impact Fee</b>
820	Greater than 400,000 GSF	1,000sf	\$9,428
881	Pharmacy/Drug Store	1,000sf	\$9,096
862	Home Improvement Superstore	1,000sf	\$12,582
931	Quality Restaurant	1,000sf	\$30,350
932	High Turnover Restaurant	1,000sf	\$40,158
934	Fast Food Restaurant w/Drive-Thru	1,000sf	\$100,808
941	Quick Lube	service bays	\$14,324
850	Supermarket	1,000sf	\$16,763
944	Gas/Service Station	veh fuel pos	\$10,123
853	Convenience Store with Gas Pumps	1,000sf	\$50,802
N/A	Convenience Store with gas and fast food	1,000sf	\$113,803
942	Auto Repair or Body Shop	1,000sf	\$10,921
841	New/Used Auto Sales	1,000sf	\$16,844
948	Car Wash	1,000sf	\$8,370
890	Furniture Store	1,000sf	\$2,352
911	Bank/Savings Walk-In	1,000sf	\$24,974
912	Bank/Savings Drive-In	1,000sf	\$44,926
<b>Industry</b>			
110	General Industrial/Industrial Park	1,000sf	\$4,663
140	Manufacturing	1,000sf	\$2,551
150	Warehouse	1,000sf	\$3,316
151	Mini-Warehouse	1,000sf	\$1,252

D. At least ninety days prior to January 1 of each year following the year this Ordinance becomes effective, the Board shall adopt an Annual Transportation Impact Fee Index Resolution. Such Resolution shall set forth adjusted Transportation Impact Fee rates for the Transportation Impact Fee Land Use Categories reflecting changes in the cost of impact fee components for the upcoming calendar year as calculated using the Transportation Indexing Application set forth in Article XII and Table XII-13 of the Impact Fee Study.

E. 1. There is hereby established the Transportation Impact Fee Trust Fund. All Transportation Impact Fees collected pursuant to this Ordinance shall be deposited in this fund. Within this Trust Fund are hereby established three accounts, the Avon Park Account, the Sebring Account, and the Lake Placid Account,

corresponding to the three TIFBD. Subject to this Section 2.08(E), Monies in each account must be segregated from monies in any other account. Transportation Impact Fees collected in each TIFBD must be deposited in the corresponding account and may only be used within the TIFBD from which collected only for Transportation purposes and only in the manner prescribed in Section 3.04 herein.

2. Proceeds in an account for one TIFBD may be used for Transportation purposes in another TIFBD where (1) the County Administrator demonstrates and makes written findings supporting (a) that the transportation purpose for which the funds are proposed to be used is attributable to demand generated in the TIFBD from which account the monies are to be used, and (b) that the proposed transportation purpose will benefit the impact-generating land within the TIFBD from whose account monies are taken, or is of such a nature as to benefit the impact-generating land within the County as a whole and (2) the Board adopts a resolution incorporating the County Administrator's findings.

F. 1. Any Person who believes that the trip characteristic assumptions applied in the Impact Fee Study for a particular Land Use in the Transportation Impact Fee schedule incorporated in this Section 2.08 projects higher trips than that occurring within the County for such Land Use may file with the County Administrator a request to perform a locally derived trip characteristic study for the property uses within the Land Use identified in the request.

2. Such alternative trip characteristic study shall meet the criteria for an Alternative Impact Fee Calculation established in Section 3.03 herein. In addition, the trip rate, trip length, and percent of new trips used in the locally derived trip

characteristic study shall be based on actual surveys conducted in Highlands County. In the absence of like impact-generating land development activity in Highlands County, the County Administrator or his designee may allow the Person undertaking the locally derived trip characteristic study to use a like impact-generating land development activity in an area outside of Highlands County, provided that the proposed study site has similar demographic characteristics as the location in Highlands County.

3. The request to perform an alternative trip characteristic study shall: identify the Person selected to perform the study and provide their statement of qualifications specifying their planning and/or engineering experience with similar projects; describe the scope of the alternative trip characteristic study to be performed in sufficient detail to allow the County Administrator to determine its reliability and conformity with the Impact Fee Study; and provide an estimate of the study cost in the event an impact fee credit for the cost of the study is sought under the conditions provided in this subsection. Prior to the commencement of the study, the County Administrator shall approve the request in writing as conforming to the requirements of this subsection.

4. If, upon the completion of the alternative trip characteristic study and a determination by the County Administrator that the study was performed in conformity with the requirements of this subsection, it is determined that the property uses in the land use that was the subject of the study generates less impact than assumed in the Impact Fee Study, the Transportation Impact Fee rate for such classification shall be adjusted to reflect the application of the locally derived trip characteristic conclusions documented in the study. Any request for an impact fee

credit to an Applicant for an alternative trip characteristic study must be filed with the County Administrator no later than January 1, 2008.

5. A credit may be granted against an impact fee imposed under this Section 2.08 for an alternative trip characteristic study if, prior to conducting that study, the Person requesting to perform that study and the County enter into a credit agreement which, at a minimum, identifies the parties, identifies the Person selected to perform the study, describes the scope of the study to be performed in sufficient detail to establish its reliability and conformity with the Impact Fee Study, requires that the study include not less than three sites acceptable to the County and identified in the agreement, establishes by exhibit and appropriate references the procedural and technical requirements for the study, and establishes the amount of the credit which shall be granted against the Transportation Impact Fee imposed under this Section 2.08, based upon the cost of the study. No credit against the impact fee imposed under this Section 2.08 shall be granted unless the County Administrator determines that the alternative trip characteristic study was performed in conformity with the requirements of that agreement and this subsection and that the property uses in the land use that was the subject of the study generates less impact than assumed in the Impact Fee Study. The credit granted against the Transportation Impact Fee pursuant to this subsection shall not exceed \$30,000.00 for any alternative trip characteristic study.

**SECTION 2.09. SCHEDULE.** The impact fees imposed under this Article shall become effective at the following times and in the following rates:

A. For the Education Facility Impact Fee imposed pursuant to Section 2.07 herein, the impact fee shall be imposed effective January 1, 2007, at a rate 50% of the

rate adopted in this Ordinance, subject to any adjustments in the impact fee rates made as a result of a Resolution changing the impact fee amounts set forth herein.

B. For the impact fees imposed pursuant to Sections 2.01-2.06 and 2.08 herein, the impact fee shall be imposed effective January 1, 2007, at a rate 25% of the rate adopted in this Ordinance, subject to any adjustments in the impact fee rates made as a result of a Resolution changing the impact fee amounts set forth herein.

### **ARTICLE III**

#### **ADMINISTRATION**

##### **SECTION 3.01. PAYMENT.**

A. Except as otherwise provided in this Ordinance, an Applicant shall pay any impact fee imposed pursuant to the Ordinance as follows:

1. If the Construction is located within the unincorporated area of the County, or within the municipal boundaries of a City in which the County has the responsibility for the issuance of Building Permits, the impact fee shall be paid to and collected by the County prior to the issuance of a Building Permit.

2. If the Construction is located within the municipal boundaries of an incorporated municipality, the impact fee shall be paid to and collected by the entity issuing the Building Permit prior to the issuance of a Building Permit.

B. The payment of any Impact Fee shall be in addition to all other fees, charges or assessments due for the issuance of a Building Permit, including any other impact fees due.

C. The obligation to pay an impact fee shall run with the land.

D. In the event that an impact fee is paid prior to the issuance of a Building Permit and that Building Permit expires prior to completion of the Construction for which it was issued, the Applicant may, within ninety (90) days after the expiration of the Building Permit, apply for a refund of the impact fee. Failure to timely apply for a refund of the impact fee shall waive any right to a refund.

1. The application for refund shall be filed with the County Administrator and contain the following:

- (a) The name and address of the Applicant;
- (b) The location of the property which was the subject of the Building Permit;
- (c) The date the impact fee was paid;
- (d) A copy of the receipt of payment for the impact fee; and
- (e) The date the Building Permit was issued and the date of expiration.

2. After verifying that the Building Permit has expired and that the Construction has not been completed, the County Administrator shall refund the impact fee paid.

3. A Building Permit which is subsequently issued for Construction on the same property which was the subject of a refund shall pay the impact fee as required by this Ordinance.

**SECTION 3.02. INDIVIDUAL CALCULATION OF IMPACT FEES.**

A. In the event Impact Fee Construction involves a land use not contemplated within the land use categories set forth in the Impact Fee Study, the

County Administrator shall determine the impact to be generated by the proposed Impact Fee Construction and shall calculate the appropriate Impact Fees utilizing the methodology contained in the Impact Fee Study. The County Administrator shall utilize as a standard in this determination the impact assumed in the most similar land use category or any other generally accepted standard source of planning and cost impact analysis.

B. In the event an Impact Fee Construction involves more than one land use Category, the County Administrator shall calculate the Impact Fee based upon the impact to be generated by each separate land use category included in the proposed Impact Fee Construction.

**SECTION 3.03. ALTERNATIVE IMPACT FEE CALCULATION FOR NON-EDUCATION FACILITY IMPACT FEES.**

A. This Section 3.03 governs alternative impact fee calculations for Impact Fees not imposed under Section 2.07 of this Ordinance.

B. In the event an Applicant believes that the impact upon, and demand for, the infrastructure for which an impact fee is imposed under this Ordinance, attributed to the Applicant's Construction, is less than the impact established in the Impact Fee Study and the fees imposed pursuant to any section in Article II of this Ordinance, such Applicant may, prior to issuance of a Building Permit for such Construction, file an Alternative Impact Fee Study with the County Administrator. The County Administrator shall review the alternative calculations and make a determination within thirty (30) days of submittal as to whether such calculations comply with the requirements of this Section.

C. For purposes of any Alternative Impact Fee calculation, the Construction shall be presumed to have the maximum impact on the County.

D. The Alternative Impact Fee calculation shall be based on data, information or assumptions contained in this Ordinance and the Impact Fee Study or independent sources, provided that:

1. The independent source is a generally accepted standard source of planning information and demand components of impact fee calculations, and the analysis is performed pursuant to a generally accepted methodology of planning and cost impact analysis which is consistent with the Impact Fee Study; or

2. The independent source is a local study supported by a data base adequate for the conclusions contained in such study performed pursuant to a generally accepted methodology for the demand components of impact fee calculations which are consistent with the Impact Fee Study.

E. If the County Administrator determines that the data, information and assumptions utilized by the Applicant comply with the requirements of this Section and that the calculation of the Alternative Impact Fee was by a generally accepted methodology that is consistent with the Impact Fee Study, then the Alternative Impact Fee shall be paid in lieu of the fees adopted pursuant to Article II hereof.

F. If the County Administrator determines that the data, information and assumptions utilized by the applicant to compute an Alternative Impact Fee do not comply with the requirements of this Section, then the County Administrator shall provide to the Applicant by certified mail, return receipt requested, written notification of the rejection and the reasons therefore.

G. An Applicant who submits a proposed Alternative Impact Fee pursuant to this Section and desires the issuance of a Building Permit prior to the resolution of a pending Alternative Impact Fee shall pay the applicable Impact Fee prior to or at the time said Applicant desires the Building Permit. Said payment shall be deemed paid "under protest" and shall not be construed a waiver of any rights. If the Impact Fee from an approved Alternative Impact Fee calculation is less than the amount determined by the applicable adopted impact fee schedule set forth in Article II herein, the difference shall be refunded to the Applicant or Owner.

**SECTION 3.04. USE OF MONIES.**

A. Impact fees shall, upon receipt by the County, be deposited in separate trust funds established and maintained by the County and established as provided in Article II for each impact fee imposed. Each such Trust Fund shall be maintained separate and apart from all other accounts of the County.

B. The monies deposited into any Impact Fee Trust Account shall be used solely for the purpose of providing growth-necessitated capital improvements in the specific impact fee program area for which fees were paid relating to the purposes set forth herein, including, but not limited to:

1. Land acquisition, including any cost of acquisition;
2. Fees for professional services, including but not limited to architecture, engineering, impact fee studies and their updates, surveying, landscaping, soils and material testing, legal, appraisals, and Construction management;
3. Design and Construction documents;

4. Site development and on--site and off--site improvements incidental to the Construction thereto;
5. Any permitting or application fees necessary for the Construction;
6. Design and Construction of any government physical plant, building or road;
7. Design and Construction of drainage facilities required by the Construction of any government physical plant, building or road;
8. Relocating utilities required by the Construction of any government physical plant, building or road;
9. Repayment of monies borrowed from any budgetary fund of the County which were used to fund growth necessitated capital improvements to any government physical plant, building or road as provided herein; and
10. Payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the County to fund growth-necessitated improvements and additions subsequent to the effective date of this Ordinance.

C. The moneys deposited into any Impact Fee Trust Account shall be used solely to provide capital improvements necessitated by growth and shall not be used for any expenditure that would be classified as a maintenance or repair expense.

D. Any impact fee funds on deposit which are not immediately necessary for expenditure shall be invested by the County. All income derived from such investments shall be deposited in the applicable Impact Fee Trust Account and used as provided herein.

E. The impact fees collected under the authority of this Ordinance shall be returned to the then current Owner of the property on behalf of which the impact fees were paid, if those fees have not been expended or encumbered prior to the end of the fiscal year immediately following the sixth anniversary of the date upon which such fees were paid. Refunds shall be made only in accordance with the following procedure:

1. The then present Owner shall petition the County Administrator for the refund within six (6) months following the end of the calendar quarter immediately following six (6) years from the date on which the fee was received.

2. The petition for refund shall be submitted to the County Administrator and shall contain:

(a) A notarized sworn statement that the petitioner is the present Owner of the property on behalf of which the impact fee was paid;

(b) A copy of the dated receipt issued for payment of the impact fee or such other record as would evidence payment; and

(c) A certified copy of the latest recorded deed or a copy of the most recent ad valorem tax bill.

3. Within ninety (90) days from the date of receipt of a petition for refund, the County Administrator will advise the petitioner and the Board of the status of the impact fee requested for refund, and if such impact fee has not been expended or Encumbered within the applicable time period, then it shall be returned to the petitioner. For the purposes of this Section, impact fees collected shall be deemed to be spent or Encumbered on the basis of the first fee collected shall be the first fee expended in the applicable impact fee category.

**SECTION 3.05. PAYMENT BY INSTALLMENTS.**

A. Any person required to pay an Impact Fee imposed under Article II of this Ordinance upon Non-Residential Construction when the Impact Fee amount due is in the amount of \$100,000 or greater may pay such Impact Fee in installments under the terms and conditions set forth in this Section.

B. In consideration for paying the Impact Fee in installments, an Applicant must execute a binding and enforceable agreement with the County under which:

1. The Owner acknowledges indebtedness for the entire impact fee; and

2. The payment schedule and rate of interest due on each installment payment is defined which rate of interest shall be the prevailing prime interest rate established for commercial lenders within the County; and

3. The Owner waives the Owner's rights to a refund under Section 3.04(F) herein; and

4. The Owner acknowledges the right of the County to record a judgment or to take measures available to any private party to enforce such a debt; and

5. The Owner acknowledges that the unpaid amount of the Impact Fee constitutes a lien against the property and not merely the improvements thereto.

C. The Agreement shall be recorded in the public records of Highlands County and shall constitute a lien against the real property on which the Impact Fee Construction is located. Such lien shall have priority over all other liens except for taxes and other governmental liens and assessments.

D. Subject to the requirements of this Section 3.05, the Impact Fee may be repaid in such installments and over such period of time (not to exceed five years) as may be mutually agreed upon by the Owner and the County.

**SECTION 3.06. ACCOUNTING AND REPORTING OF IMPACT FEES.** The revenues realized from impact fees imposed pursuant to Article II of this Ordinance shall be identified in the County's budget as a separate account required by section 163.31801(3)(b), Florida Statutes (2006). The County shall maintain adequate records to justify all expenditures from any Impact Fee Trust Fund and any accounts established within such Trust Fund. The County shall prepare an annual report reflecting the collection and expenditures during the previous year of the Impact Fees imposed pursuant to Article II of this Ordinance.

**SECTION 3.07. NOTICE REQUIREMENTS FOR INDEXING RESOLUTIONS.** At least ten calendar days prior to consideration by the Board of one or more resolutions implementing an indexing adjustment for one or more impact fees imposed pursuant to this Ordinance, the County shall publish notice of the intention of the Board to consider such resolution or resolutions in a newspaper of general circulation within the County. Such notice shall identify the impact fee or fees to be indexed and the amount of the proposed adjustment to each impact fee.

**SECTION 3.08. ADMINISTRATIVE CHARGES.** The County may retain up to one percent (1%) of all Impact Fees received or the actual costs of collection, whichever is less, as an administrative fee to defray the costs of administering the Impact Fees levied pursuant to this Ordinance.

## ARTICLE IV

### MISCELLANEOUS PROVISIONS

**SECTION 4.01. EXEMPTIONS.** The following shall be exempted from payment of any impact fees:

A. Alterations or expansion of an existing Dwelling Unit where no additional Dwelling Units are created and the expansion does not increase the size of the existing Dwelling Unit to a larger square foot impact fee category.

B. The Construction of Accessory Buildings or Structures which will not create additional Dwelling Units or increase the size of an existing Dwelling Unit to a larger square foot impact fee category.

C. The replacement of a Dwelling Unit where no additional Dwelling Units are created, the replacement Dwelling Unit is in the same square foot impact fee category as the previous Dwelling Unit, and the previous and replacement Dwelling Units are located on the same lot. Such replacement must occur within five (5) years of the date the previous Dwelling Unit was previously occupied.

D. The issuance of a tie-down permit for a Mobile Home on which the applicable impact fee has previously been paid for the lot upon which the Mobile Home is to be situated.

E. Government-owned Construction.

F. Any Residential Construction that qualifies as Affordable Housing and meets the following requirements:

1. Any Person seeking an Affordable Housing exemption for an Owner-occupied Residential Construction shall file with the County Administrator an

Application for Exemption prior to receiving a Building Permit for the proposed Residential Construction. The Application for Exemption shall contain the following:

- (a) The name and address of the Owner;
- (b) The legal description of the Residential Construction;
- (c) The proposed selling price of the Residential Construction;
- (d) Evidence that the Residential Construction shall be occupied

by Low Income Persons or Very Low Income Persons;

(e) Evidence that the Residential Construction shall be occupied as the legal homestead of the Owner; and

(f) An original fully executed and recordable lien upon the Residential Construction that contains a clause requiring the payment of the Impact Fees in effect at any time the Residential Construction fails to satisfy the Affordable Housing requirements provided herein if such failure occurs during the thirty (30) year period from the date of the issuance of a Certificate of Occupancy.

2. Any Person seeking an Affordable Housing exemption for rental Residential Construction located within a qualifying multi-family rental project shall file with the County Administrator an Application for Exemption prior to receiving a Building Permit for the proposed Residential Construction. The Application for Exemption shall contain the following:

- (a) The name and address of the Owner;
- (b) The legal description of the Residential Construction;
- (c) The proposed rental rates;

(d) Evidence that the Residential Construction shall be occupied by Low Income Persons or Very Low Income Persons; and

(e) Evidence that the Residential Construction is part of a multi-family project, which is funded by a governmental affordable housing program.

(f) An original fully executed and recordable lien upon the Residential Construction that contains a clause requiring the payment of the Impact Fees in effect at any time the Residential Construction fails to satisfy the Affordable Housing requirements provided herein if such failure occurs during the thirty (30) year period from the date of the issuance of a Certificate of Occupancy.

3. If the Residential Construction meets the requirements for an Affordable Housing exemption, the County Administrator shall issue an exemption. The exemption shall be presented in lieu of payment of the Impact Fee.

4. At the time the Affordable Housing exemption is granted by the County Administrator, the County shall record an Impact Fee lien against the property that includes a clause requiring payment of Impact Fees in effect at the time the Residential Construction fails to satisfy the Affordable Housing requirements provided herein, if that failure occurs during the thirty year period following the issuance of the Certificate of Occupancy. Such liens shall have priority over all other liens except for taxes and governmental liens and assessments.

5. In the event the Residential Dwelling Unit fails to satisfy the Affordable Housing requirements provided herein during the 30 year period following the issuance of the Certificate of Occupancy such that the property no longer qualifies as Affordable Housing and is no longer occupied by Low Income Persons or Very Low

Income Persons, the Impact Fees in effect at the time of the change in circumstances shall be immediately due and payable.

**SECTION 4.02. CHANGES IN SIZE AND USE.** Impact fees shall be imposed and calculated for the alteration, expansion or replacement of a Building or Dwelling Unit or the Construction of an Accessory Building if the alteration, expansion or replacement of the Building or Dwelling Unit or the Construction of an Accessory Building results in a land use determined to increase the number of Dwelling Units or the expansion of any Building or Dwelling Unit to a larger square foot impact fee category or the demand for the service or infrastructure for which the impact fee has been imposed. The impact fee imposed shall be the impact fee imposed under this Ordinance for the Building, or Accessory Building after Construction, alteration, expansion or replacement, less the impact fee that would be imposed for the Building type prior to such alteration, expansion, replacement or Construction.

**SECTION 4.03. ALTERNATIVE COLLECTION METHODS.** In the event an impact fee is not paid prior to the issuance of a Building Permit for the affected Construction, the impact fee shall be collected at the issuance of the Certificate of Occupancy. In the event the impact fee is not paid prior to the issuance of a Certificate of Occupancy for the affected Construction, the impact fee shall be collected by any other method which is authorized by law, unless, otherwise exempted pursuant to this Ordinance.

**SECTION 4.04. DEVELOPER CONTRIBUTION CREDITS.**

A. Subject to the terms and conditions of this Section 4.04, a credit shall be granted against an impact fee imposed under Article II of this Ordinance for the value

of a donation of money, a parcel of land reasonably useful to the County, or provision or construction of a growth-necessitated capital improvement in the specific impact fee program contemplated to be provided by the impact fee for which the credit is requested whether such dedication, construction or provision is required pursuant to a Development Permit or made voluntarily in connection with Construction. All donations, provisions or constructions shall be subject to the approval and acceptance of the County Administrator. No credit shall be given for the donation of money or land or the provision or construction of a growth-necessitated capital improvement unless such property is conveyed, in fee simple to the County without consideration, after approval and acceptance by the County Administrator and after such donation of land or provision or construction of a growth-necessitated capital improvement is included as a project in the Capital Improvement Element of the County's Comprehensive Plan.

B. Prior to issuance of a Building Permit, the Applicant shall submit a proposed plan for donations or contributions to the County Administrator. The proposed plan shall include:

1. a designation of the Construction for which the plan is being submitted;
2. a legal description of any land proposed to be donated and a written appraisal;
3. a list of the contemplated contributions to the County and an estimate of the proposed Construction costs certified by a professional architect or engineer; and
4. a proposed time schedule for completion of the proposed plan.

C. The County Administrator shall approve or deny the proposed plan in accordance with subsection (D) of this Section and, if approved, establish the amount of credit in accordance with subsection (E) of this Section. The County Administrator shall issue a decision within sixty (60) days after the filing of the proposed plan.

D. In reviewing the proposed plan, the County Administrator shall determine:

1. if such proposed plan is in conformity with contemplated improvements and additions in the Comprehensive Plan's capital improvement element;
2. if the proposed donation of land or money or provision or construction of a growth-necessitated capital improvement by the Applicant is consistent with the public interest;
3. if the proposed time schedule is consistent with the capital improvement program for the particular infrastructure demand for which the impact fee has been levied.

E. If a proposed plan is approved for credit by the County Administrator, the Applicant or Owner and the County shall enter into a credit agreement which shall provide for the timing of the action to be taken by the Applicant or Owner and the obligations and responsibilities of the Applicant or Owner, including, but not limited to:

1. The timing of actions to be taken by the Applicant or Owner and the obligations and responsibilities of the Applicant or Owner, including, but not limited to, the Construction standards and requirements to be complied with;
2. The obligations and responsibilities of the Board, including but not limited to inspection of the project; and
3. The amount of the credit.

F. A credit for the donation of land or money shall be granted at such time as the property which is the subject of the donation has been conveyed to and accepted by the County. A credit for the provision or construction of a growth-necessitated capital improvement shall be granted at such time as the capital improvement is completed, approved and accepted by the County. The administration of said contribution credits shall be the responsibility of the County Administrator.

G. Any Applicant or Owner who submits a proposed plan pursuant to this Section and desires the immediate issuance of a Building Permit prior to approval of the proposed plan shall pay the applicable impact fee pursuant to Article II. Any difference between the amount paid and the amount due, should the County Administrator approve and accept the proposed plan, shall be refunded to the Applicant or Owner. The administration of such refunds shall be the responsibility of the County Administrator. No refunds may be granted except as provided in this subsection.

H. The provisions of this Section 4.04 shall not apply to credits against impact fees imposed under Section 2.07 of this Ordinance.

#### **SECTION 4.05. REVIEW HEARINGS.**

A. Except as otherwise provided in Section 2.07 of this Ordinance, an Applicant or Owner who is required to pay an impact fee pursuant to Article II of this Ordinance, shall have the right to request a review hearing pursuant to this Section 4.05 herein.

B. Such review shall include but not be limited to the review of the following:

1. The application of the impact fee to the Applicant or Owner's Construction.

2. Denial of an Alternative Impact Fee.
3. Denial of an exemption pursuant to Section 4.01 herein.
4. Any dispute concerning an application for credits pursuant to Section 4.04 herein.

C. Except as otherwise provided in this Ordinance, such review shall be requested by the Applicant or Owner within thirty (30) days of written notice after the event sought to be reviewed.

D. The request for review shall be filed with the County Administrator and shall contain the following:

1. The name and address of the Applicant and Owner;
2. The legal description of the property in question;
3. If issued, the date the Building Permit was issued;
4. If paid, the date the applicable impact fee was paid; and
5. A statement of the reasons why the Applicant or owner is requesting the hearing.

E. Upon receipt of such request, including all the elements required pursuant to this Ordinance, the County Administrator or his designee shall review the request, and within 30 days of the receipt of the complete request, approve or deny the request. If the Applicant or Owner making the request disagrees with the determination of the County Administrator or his designee, the Applicant or Owner may appeal such decision to the Board.

F. Upon receipt of such appeal, a hearing shall be scheduled before the Board at a regularly scheduled meeting or a special meeting called for the purpose of

conducting the hearing and shall provide the Applicant and Owner written notice of the time and place of the hearing. Such hearing shall be held within sixty (60) days of the date the appeal was filed. The record of such appeal shall consist only of those materials submitted to the County Administrator or his designee and the written decision being appealed.

G. Such hearing shall be conducted in a manner designed to obtain all information and evidence relevant to the requested hearing. Formal rules of civil procedure and evidence shall not be applicable; however, the hearing shall be conducted in a fair and impartial manner with each party having an opportunity to be heard and to present information and evidence. A determination shall be in writing and issued within thirty (30) days of the hearing to the Applicant, Owner and governmental entity responsible for issuing the applicable Building Permit.

H. Any Applicant or Owner who requests a hearing pursuant to this Section and desires the immediate issuance of a Building Permit or who has been issued a Building Permit without the payment of the applicable impact fee, shall, prior to or at the time the request for hearing is filed, pay the applicable impact fee. That payment shall be deemed paid "under protest" and shall not be construed as a waiver of any review rights.

I. An Applicant or Owner may request a hearing under this Section without paying the applicable impact fee but no Building Permit shall be issued until such impact fee is paid in the amount initially calculated or the amount approved upon completion of the review provided in this Section.

**SECTION 4.06. REVIEW REQUIREMENT.** This Ordinance shall be reviewed by the County at least once every three (3) years from the date this Ordinance is adopted. The initial and each subsequent review shall consider, but not be limited to, all components of the Impact Fee Study accepted in Section 1.04 herein. Said review shall also include detailed analyses of the economic impacts of this Ordinance. The purpose of this review is to demonstrate and assure that no impact fee exceeds reasonably anticipated costs associated with growth necessitated capital improvements. In the event the review of the Ordinance, or the Impact Fee Study, required by this Section alters or changes the assumptions, conclusions and findings of the Impact Fee Study accepted by reference in Section 1.04 herein then the Impact Fee Study shall be amended and updated to reflect the assumptions, conclusions and findings of such reviews and any impact fee imposed based on such component of the Impact Fee Study shall be amended in accordance therewith.

**SECTION 4.07. CREATION OF ECONOMIC DEVELOPMENT FUND.**

A. It is hereby found, ascertained and declared that:

1. The imposition of impact fees may place the County in a non-competitive position with other local governments that have chosen not to require future growth to contribute its fair share of needed capital improvements and thus hinder efforts by the County and the community to encourage economic development opportunities within the County and to create permanent employment expansion opportunities for its citizens; and

2. The creation of an economic development trust fund funded from an annual appropriation of County General Fund revenue and taxes measured by a

percentage of projected impact fee collections for targeted economic development will facilitate the provision of economic development incentives to mitigate any real or perceived disadvantage occurring from the imposition of impact fees in the manner directed by the County by resolution or stated policy.

B. There is hereby created within the General Fund Budget of the County an "Economic Development Activity Trust Fund" to be funded by an annual transfer to the Trust Fund from revenues and taxes available in the County General Fund. The amount of the annual Trust Fund transfer shall be such amount as appropriated by the County for the Trust Fund for each County budget year. The amounts on deposit in the Economic Development Activity Trust Fund shall be appropriated to provide for the creation and maintenance of the Economic Development Program within the County based upon qualifying criteria within an economic development program established by subsequent resolution.

**SECTION 4.08. CREATION OF AFFORDABLE AND WORKFORCE HOUSING TRUST FUND.** There is hereby created within the General Fund Budget of the County an "Affordable and Workforce Housing Trust Fund" to be funded by an annual transfer to the Trust Fund from revenues and taxes available in the County General Fund. The amount of the annual Trust Fund transfer shall be such amount as appropriated by the County for the Trust Fund for each County budget year. The amounts on deposit in the Affordable and Workforce Housing Trust Fund shall be appropriated to provide for the creation and maintenance of Affordable and Workforce Housing within the County based upon qualifying criteria within an Affordable and Workforce Housing program established by subsequent resolution.

**SECTION 4.09. DECLARATION OF EXCLUSION FROM ADMINISTRATIVE PROCEDURES ACT.** Nothing contained in this Ordinance shall be construed or interpreted to include the County in the definition of agency contained in section 120.52, Florida Statutes, or to otherwise subject the County to the application of the Administrative Procedures Act, Chapter 120, Florida Statutes.

**SECTION 4.10. SEVERABILITY.** If any clause, section or provision of this Ordinance shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of this Ordinance shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.

**SECTION 4.11. EFFECTIVE DATE.** A certified copy of this Ordinance shall be filed in the Department of State by the Clerk of the Board within ten (10) days after enactment by the Board and shall take effect on January 1, 2007.

**SECTION 4.12. INCLUSION IN THE CODE.** It is the intention of the Board of County Commissioners and it is hereby provided that the provisions of this Ordinance shall be made a part of the Code of Ordinances, Highlands County, Florida; that the sections of this Ordinance may be renumbered or relettered to accomplish such intention; and that the word "Ordinance" may be changed to "section," "article," or other appropriate designation.

**DULY ADOPTED** in regular session, this 5<sup>th</sup> day of September, 2006.

BOARD OF COUNTY COMMISSIONERS  
OF HIGHLANDS COUNTY, FLORIDA

BY: \_\_\_\_\_  
Robert F. Bullard, Chairman

ATTEST:

\_\_\_\_\_  
L.E. "Luke" Brooker

(SEAL)

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