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BEFORE THE BOARD OF COUNTY COMMISSIONERS

MARTIN COUNTY, FLORIDA

ORDINANCE NUMBER 474

SCHOOL IMPACT FEE ORDINANCE

AN ORDINANCE RELATING TO THE REGULATION OF THE USE AND DEVELOPMENT OF LAND IN MARTIN COUNTY, FLORIDA; PROVIDING FOR THE IMPOSITION OF AN IMPACT FEE ON RESIDENTIAL LAND DEVELOPMENT IN MARTIN COUNTY TO PROVIDE FOR CAPITAL IMPROVEMENTS FOR SCHOOLS NECESSITATED BY SUCH NEW DEVELOPMENT; PROVIDING FOR A SHORT TITLE, STATING AUTHORITY AND APPLICABILITY OF THE ORDINANCE; PROVIDING FOR THE INTENT AND PURPOSES; PROVIDING RULES OF CONSTRUCTION; PROVIDING DEFINITIONS; PROVIDING FINDINGS AND DECLARATIONS OF THE BOARD OF COUNTY COMMISSIONERS; PROVIDING FOR COMPUTATION OF THE AMOUNT OF THE SCHOOL IMPACT FEE; PROVIDING FOR THE IMPLEMENTATION OF THE MARTIN COUNTY COMPREHENSIVE GROWTH MANAGEMENT PLAN; PROVIDING FOR THE PAYMENT OF A SCHOOL IMPACT FEE AS THE PREREQUISITE FOR ISSUANCE OF A BUILDING PERMIT FOR A RESIDENTIAL UNIT OR MOBILE HOME PERMIT; PROVIDING FOR REVIEW AND ADJUSTMENT OF THE IMPACT FEE; PROVIDING A METHOD OF PAYMENT OF THE FEE; PROVIDING FOR ESTABLISHMENT OF A SCHOOL IMPACT FEE TRUST FUND; PROVIDING FOR THE PLACEMENT OF REVENUE COLLECTED FROM SCHOOL IMPACT FEES INTO A SCHOOL IMPACT FEE TRUST FUND ESTABLISHED FOR THAT PURPOSE; PROVIDING FOR THE LIMITATION OF THE EXPENDITURE OF FUNDS FROM THE SCHOOL IMPACT FEE TRUST FUND TO CERTAIN CAPITAL COSTS; PROVIDING FOR EXEMPTIONS AND CREDITS; PROVIDING FOR REFUND OF UNEXPENDED FUNDS; PROVIDING FOR REVIEW OF THE FEE SCHEDULE; PROVIDING FOR A PENALTY AND ENFORCEMENT PROVISION; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE; PROVIDING FOR FILING AND CODIFICATION.

WHEREAS, the Martin County Comprehensive Growth Management Plan establishes the policy that land development shall not be permitted unless adequate capital facilities exist or are assured; and

WHEREAS, the Martin County Comprehensive Growth Management Plan establishes the policy that land development shall bear the full cost of the provision of the new or expanded capital facilities required by such development; and

WHEREAS, the Martin County Comprehensive Growth Management Plan establishes that the imposition of impact fees is a preferred method of regulating land development so as to ensure that it bears the full cost of capital facilities necessary to accommodate development and to promote and protect the public health, safety, and welfare; and

WHEREAS, the Florida Legislature through the enactment of Section 163.3201, Section 163.3202(3) and Section 380.06(16) Florida Statutes (1993) has sought to encourage local governments to enact impact fees as land development regulations; and

WHEREAS, the Martin County School Board has adopted a resolution which requests the County to adopt a School Impact Fee which requires future residential development to contribute its fair share of the cost of capital improvements to the Martin County School System which are necessary to accommodate such growth; and

WHEREAS, the Martin County School Board has determined that anticipated revenue sources will not be sufficient to provide the

capital improvements to the School System which are necessary to accommodate such growth; and

WHEREAS, Sections 163.3161(3), 163.3164(24), 163.3177(6) and (7) Florida Statutes (1993) provide that schools are an appropriate subject for comprehensive planning; and

WHEREAS, the implementation of a School Impact Fee promotes the general welfare of the citizens of Martin County in that providing for educational facilities which are adequate for the needs of growth is in the general welfare of all County residents and constitutes a public purpose; and

WHEREAS, the projected capital improvements to the school system and the allocation of projected costs between those necessary to serve existing development and those required to accommodate the educational needs of future residential development as presented in the study entitled "Technical Memorandum on the Methods Used to Calculate the School Impact Fee Proposal for School Board of Martin County, Florida" dated January 8, 1995, has been approved and is found to be consistent with the Comprehensive Growth Management Plan; and

WHEREAS, the School Board of Martin County, Florida, is required by Section 235.19, Florida Statutes, to coordinate school site planning with the County's comprehensive plan; and

WHEREAS, Section 235.193(1), Florida Statutes, requires the coordination of planning between school boards and local governing bodies to ensure that plans for the construction and opening of

public educational facilities are coordinated in time and place with plans for residential development and other necessary services; and

**NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MARTIN COUNTY:**

Section I. Short Title, Authority, and Applicability.

A. This ordinance shall be known and may be cited as the "School Impact Fee Ordinance."

B. The Board of County Commissioners of Martin County has the authority to adopt this ordinance pursuant to Article VIII of the Constitution of the State of Florida and to Chapter 125 and Section 163.3201, Section 163.3202(3), and Section 380.06(16) of the Florida Statutes.

C. This ordinance shall apply to the unincorporated and incorporated areas of Martin County.

D. This ordinance shall apply to residential development that is subject to a Development Order.

Section II. Intents and Purposes.

A. This ordinance is intended to implement and be consistent with the Martin County Comprehensive Growth Management Plan.

B. The purpose of this ordinance is to regulate the use and development of land so as to ensure that new development bears the full cost of capital expenditures necessary to provide public

schools for that new development in Martin County as contemplated by the Martin County Comprehensive Growth Management Plan.

Section III. Rules of Construction.

A. The provisions of this ordinance shall be liberally construed so as to effectively carry out its purpose in the interest of the public health, safety, and welfare.

B. For the purposes of administration and enforcement of this ordinance, unless otherwise stated in this ordinance, the following rules of construction shall apply to the text of this ordinance:

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; the word "may" is permissive.
3. Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
4. The phrase "used for" includes "arranged for," "designed for," "maintained for," or "occupied for."
5. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

6. Unless the context clearly indicates the contrary, where a regulation involves two (2) 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 the connected terms, conditions, provisions or events shall apply.
  - b. "Or" indicates that the connected items, conditions, provision 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.
7. 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.
8. "County Administrator" means the County Administrator or whoever he/she may designate to carry out the administration of this ordinance, or the Chief Executive Officer of any municipality or whoever he/she may designate to carry out the administration of this ordinance.

Section IV. Definitions.

A. A "feepayer" is a person applying for the issuance of a building permit for a type of land development activity specified in Section V of this Ordinance.

B. A "capital improvement" includes school planning and design, land acquisition, site improvements, buildings, and capital equipment, but excludes maintenance and operations.

C. "Capital Equipment" is equipment with an expected use life of three (3) years or more.

D. "Encumbered fee revenue" means the commitment by the School Board of an impact fee for the purpose of expenditures on the planning or design of, land acquisition for, or construction of capital improvements or purchase of capital equipment that provide a benefit to new growth and development. For the purpose of this Ordinance, encumbrance is accomplished where any impact fee supported facility is adopted in the School Board's Annual Budget, or in the first year of the adopted Capital Improvements Element of the Martin County Comprehensive Growth Management Plan.

E. "Building permit" means a permit for the construction of or addition to a structure, the installation of a mobile home, or any renewal or extension of any such permit or approval. Building permits shall include those permits which allow the installation or location of a mobile home to or on a site or lot, or any renewal or extension thereof.

F. "Capital Costs of Educational Facilities" are expenditures for the acquisition of fixed assets or additions to

fixed assets and expenditures for site acquisition, construction, design, site development, necessary off-site improvements, and capital equipment pertaining to educational facilities.

G. "School Board" means the elected representatives that in accordance with the provisions of Section 4(b) of Art. IX of the State Constitution, shall operate, control, and supervise all free public schools in their respective districts and may exercise any power except as expressly prohibited by the State Constitution of general law.

H. "Superintendent" means the elected official responsible for the administration and management of the schools and for the supervision of instruction in the district who operates as the secretary and executive officer of the School Board, as provided by law.

I. "Dwelling Unit" means one or more rooms which are arranged, designed or used as living quarters, including permanently installed bathroom and kitchen facilities. Guest houses do not constitute a separate dwelling unit.

#### Section V. Imposition of School Impact Fees.

A. Except when deferral is permitted pursuant to Section XI, any person who, after the effective date of this ordinance, seeks to develop land by applying for the issuance of a building permit, or renewal or extension thereof, shall be required to pay a school impact fee in the manner and amount set forth in this ordinance.



B. Except when deferral is permitted pursuant to Section XI, no building permit, or renewal or extension of that permit, shall be issued unless and until the school impact fee hereby required has been paid. When a renewal or extension of such permit is granted pursuant to applicable laws, then the feepayer shall be credited with that amount paid for the issuance of the original permit or certificate.

Section VI. Computation of the Amount of School Impact Fee.

A. Except as provided in paragraph B of this section, the amount of the fee shall be determined by the fee schedule shown on Attachment A hereto and incorporated herein by reference.

B. The feepayer may, at his/her expense, submit evidence to the School Board indicating that the fees set out in paragraph A above are not appropriate for this particular development. Claims of inappropriateness may not be based on temporary or short-term residences. Based upon convincing and competent evidence, the School Board may adjust the fee to that appropriate for the particular development. The burden shall be upon the feepayer to provide all relevant data, analysis, and reports which would assist the School Board in making a determination. The adjustment may include a credit for school facilities provided such facilities are consistent with Section VII. B. of this Ordinance. The School Board's action in adjusting or refusing to adjust the impact fee pursuant to an independent calculation shall be in writing and must

be transmitted by certified mail to the Feepayer, with a copy to the County Administrator.

Section VII. Payment of Fee.

A. Except when deferral is permitted pursuant to Section XI, the feepayer shall pay the fee to the County Administrator at any time prior to the issuance of any building permit which may be required for development listed in the schedule in Attachment A or any renewal or extension thereof. No building permit may be issued for any development listed in Attachment A by Martin County or any municipality within Martin County until such fee has been paid.

B. School land and capital improvements may be offered by the feepayer as total or partial payment of the required impact fee provided that such offer is consistent with the standards and criteria set forth in Chapter 235, Florida Statutes, is accepted by the School Board, and is consistent with the adopted Capital Improvement Element of the Martin County Comprehensive Growth Management Plan. The offer shall not constitute payment of the impact fee until it is accepted by the School Board and the feepayer has dedicated such land and/or made such improvements or posted security for the construction of any and all capital improvements pursuant to the offer as accepted.

C. Credit shall be given for land at such time as marketable title in fee simple absolute is conveyed to the School Board, free of encumbrances with such documentation and requirements set by the School Board for the acceptance of real property.

D. Credit for contributions of or for school facilities may be given only upon petition to the School Board. Approval of the School Board must be obtained prior to effecting the contribution for all contributions made on or after the effective date of this Article.

Section VIII. School Impact Fee Trust Fund Established.

A County School Impact Fee Trust Fund is hereby established. Funds withdrawn from these accounts must be used in accordance with Section IX of this ordinance.

Section IX. Use of Funds and Establishment of School Impact Fee Trust Fund.

A. The collecting governmental unit shall be entitled to up to but not more than 3% of the funds collected to compensate it for the administrative expense of collecting and administering the school impact fee ordinance. All remaining funds collected from school impact fees shall be used solely for the purpose of capital costs of educational facilities under the jurisdiction of the Martin County School Board, including repayment of indebtedness for such facilities. School facilities shall be of the type made necessary by the County's growth and development and consistent with the Capital Improvements Element of the Comprehensive Growth Management Plan.

B. The County and School Board by interlocal agreement shall provide for the following: Each fiscal period the School Board

shall, after consultation with the Superintendent and County Administrator, prepare a capital improvement program for adoption for school facilities, assigning funds, including any accrued interest, from the School Impact Fee Trust Fund to specific school improvements projects and related expenses. Monies, including any accrued interest, not assigned in any fiscal period shall be retained in the School Impact Fee Trust Fund until the next fiscal period except as provided by the refund provisions of this ordinance. Funds shall be expended in the order in which they are collected.

C. In the event that bonds or similar debt instruments are issued for advanced provision of school facilities for which school impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are of the type described in paragraph A above and that the restrictions on use of funds imposed by paragraph B above are complied with. In the event that impact fees are pledged to issued bonds or similar debt instruments, then said impact fees are presumed to be expended.

#### Section X. Refund of Fees Paid.

A. If a building permit expires or is cancelled or is revoked, the structure has not been completed, and no certificate of occupancy has been issued or no construction has been commenced and the impact fee revenues have not been expended or encumbered, then the feepayer shall be entitled to a refund, without interest,

of the impact fee paid as a condition for its issuance except that the School Board shall retain three percent (3%) of the funds as an administrative fee to offset the costs of collection and refund. The feepayer must submit an application for such a refund to the Superintendent within 30 days of the expiration of the permit. The application for refund must contain a dated receipt issued for payment of the impact fee; the building permit or other permit for which the impact fees were paid; evidence that the applicant is the feepayer or a successor in interest to the feepayer; proof from the County or municipality that the permit has been cancelled; and, if relevant, the date on which the municipality forwarded the funds to Martin County or the School Board. If the impact fee revenues have been expended or encumbered, upon application and at the option of the feepayer:

1. the feepayer shall receive a full monetary credit in the amount of the prepaid fee which shall remain valid and run with the land for a period of ten (10) years from the date of receipt of the credit; or
2. the feepayer and the School Board shall enter into a Cost Reimbursement Agreement, in which the feepayer shall be repaid up to the full amount of the fee paid by the feepayer (less an administrative charge of three percent (3%) to account for the cost of collection and refund),

based upon the School Board's receipt of other applicable fees over the next five years.

B. Any funds not expended or encumbered by the end of the fiscal year immediately following six (6) years from the date the school impact fee was paid shall, upon application of the feepayer to the School Board within one hundred eighty (180) days of that date, be returned to the feepayer.

Section XI. Exemption, Credits, and Deferrals.

A. Exemption. Alteration, expansion or replacement of an existing residential building where no additional dwelling units are created and where the use is not changed shall be exempted from payment of the school impact fee.

An exemption must be claimed by the feepayer at the time of the issuance of a building permit. Any exemption not so claimed shall be deemed waived by the feepayer.

B. Credits. The value of any donation or dedication of school land or school related capital facilities required of the feepayer under a county or city development order shall be credited against the impact fee or fees otherwise due provided the subject land and/or facilities are contained in the School Board's Section of the Adopted Capital Improvements Element of the Comprehensive Growth Management Plan. Credits must be claimed by the feepayer at the time of the issuance of a building permit. Any credit not so claimed shall be deemed waived by the feepayer. The feepayer will

provide the following information to the School Board for a determination of the value of any donation or dedication:

1. An independent property appraisal report prepared by an individual who is both a member of the Appraisal Institute (MAI) and a state certified general appraiser acceptable to the Superintendent of Schools, containing the following:
  - a. Purpose of the appraisal.
  - b. Legal description of property, including a minimum of five (5) years delineation of title.
  - c. Present use and zoning.
  - d. Utilities.
  - e. Type and condition of improvements and special features that may add to or detract from the value of the property.
  - f. Highest and best use of the property on which the appraisal is based before the acquisition of rights and interests to be acquired and that highest and best use of the remainder after the acquisition when a partial taking is involved. In either instance, if the existing use is not the premise on which the valuation is based, the appraisal will contain an explanation justifying the determination that the property is available and adaptable for a different highest and best use and there is a demand for that use in the market.

- g. Before and after valuation as interpreted by Florida law will be used in partial donations or special benefits to the residue land or improvements.
- h. A valuation including all applicable approaches to value. If an approach is not considered applicable, the appraiser must state why. All pertinent calculations used in developing the approaches will be shown.
  - 1. In the market approach, the appraisal report will contain a direct comparison of pertinent comparable sales to the property being appraised. The appraiser must include a statement setting forth his analysis and reasoning for each item of adjustment to comparable sales.
  - 2. Where the income (capitalization) approach is used, there must be documentation to support the income, expenses, interest rate, capitalization rate, discount rate, or any other factors used in the analysis. Where it is determined that the market rental income is different from the existing or contract income, the increase or decrease



must be explained and supported by market information.

3. Where the cost approach is utilized the appraisal report must contain the specific source of cost data, remaining economic life, and an explanation of each type of accrued depreciation.
- i. Appraisal after value must be supported to the same extent as the appraisal of the before value. This support should include one or more of the following:
  1. Sales comparable to the remainder properties.
  2. Sales of comparable properties from which there have been similar donations, or acquisitions for like usages.
  3. Development of the income approach on properties which show economic loss or gain as a result of similar acquisition or taking for like usages.
  4. Public sales of comparable lands by the state or other public agencies.
  5. In the event the data described in 1 through 4 above are not available, the appraisal will so state and give the

appraiser's reasoning for his value estimate.

- j. Where two (2) or more of the approaches of value are used, the appraisal will show the correlation of the separate indications of value derived by each approach along with a reasonable explanation for the final conclusion of value. This correlation will be included for both before and after appraisals.
- k. All appraisal reports should include identified photographs of the subject property including all principal above ground improvements or unusual features affecting the value of the property to be taken or damaged.
- l. Appraisal reports will contain a survey and sketch or plat of the property showing boundary dimensions, location of improvements and other significant features of the property.
- m. Each appraisal report will contain or make reference to the comparable sales which were used in arriving at the fair market value. Comparable sales data must state the date of sale, names of parties to the transaction, consideration paid, financing, conditions of sale and with whom these were verified, the

location, total area, type of improvements, appraiser's estimate of highest and best use at the date of sale, zoning, and any other data pertinent to the analysis and evaluation thereof. If the appraiser is unable to verify the financing and conditions of sale from the usual sources such as buyer, seller, broker, title or escrow company, etc., he will so state. Pertinent comparable sales data should include identified photographs of all principal above ground improvements or unusual features affecting the value of the comparable.

- n. All properties appraised and the comparable sales which were relied upon in arriving at the fair market value estimate will be personally inspected in the field by the appraiser and all dates of inspection will be shown in the appraisal report.
- o. The effective date to which the valuation applies.
- p. A statement of appropriate contingent and limiting conditions, if any.
- q. The certification, signature, and date of signature of the appraiser.

The School Board shall certify the amount of any such credit to the County, which credit against school impact fees shall be accepted by the County as a final determination of the credited amount. Any feepayer who requests the issuance of a building permit (or renewal or extension thereof) for development for which school land has been dedicated or a fee paid in lieu of, prior to the effective date of this ordinance, shall receive a credit therefore against the applicable school impact fee, provided that the feepayer provides documentation satisfactory to the Superintendent of Schools that the feepayer's impact has been addressed.

C. Deferral of Impact Fee Payments for Affordable Housing

1. Builders of affordable housing for low and very low income households may request prior to the application for building permit that payment of impact fees be deferred until the issuance of the certificate of occupancy or one year after the issuance of the building permit, whichever is earlier.

2. Definitions

Affordable housing is defined in the Martin County Comprehensive Growth Management Plan as housing that requires thirty percent or less of a household's gross annual income for monthly housing costs.

Very Low Income households are defined as households whose income is 50% or less of median income as determined by the income limits established by the U.S. Department of Housing and Urban Development (HUD), adjusted for family size and as distributed yearly by the Florida Housing Finance Agency.

Low Income households are determined as households whose income is 51% to 80% of the median income limits established by the U.S. Department of Housing and Urban Development (HUD), adjusted for family size and as distributed yearly by the Florida Housing Finance Agency.

3. Deferrals will be made to applicants who meet the criteria and will be determined on a case-by-case basis by the Superintendent or his/her designee.
4. In order to receive a deferral of impact fees the sales prices of the homes cannot exceed 90% of median area purchase price as established by the United States Department of the Treasury in accordance with Section 3(b)2 of the United States Housing Act of 1937. In addition, house size is correlated to household size, so that the home to be constructed does not exceed HUD income guidelines.

5. Appeals. Any determination made by the Superintendent of Schools may be appealed to the School Board by filing notice of said appeal to the Superintendent of Schools within 30 days of such decision.

Section XII. Review of Fee Structures.

The fee schedule contained in Section VI A hereof shall be reviewed by the School Board at least once each fiscal biennium.

Section XIII. Penalty and Enforcement Provision.

A violation of this ordinance shall be a misdemeanor punishable according to law; however, in addition to or in lieu of any criminal prosecution, Martin County or any feepayer shall have the power to sue for relief in civil court to enforce the provisions of this ordinance. Knowingly furnishing false information to the Superintendent of Schools or the County Administrator on any matter relating to the administration of this ordinance shall constitute a violation thereof.

Section XIV. Severability.

If any section, phrase, sentence, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section XV. Filing with Department of Community Affairs.

The County Attorney shall send a certified copy of this Ordinance to the Department of Community Affairs, 2740 Centerview Drive, Tallahassee, Florida 32399-2100.

Section XVI. Filing with Department of State.

The Clerk be and hereby is directed forthwith to send a certified copy of this ordinance to the Bureau of Administrative Code, Department of State, 401 South Monroe Street, Elliott Building, Tallahassee, Florida 32399-0250.

Section XVII. Filing with Treasure Coast Regional Planning Council.

The County Attorney shall send a certified copy of this ordinance to Treasure Coast Regional Planning Council, P.O. Box 1529, Palm City, Florida 34990.

Section XVIII. Codification.

Provisions of this ordinance shall be incorporated in the County Code and the word "ordinance" may be changed to "section," "article" or other word, and the sections of this ordinance may be renumbered, or relettered, provided, however, that Section XV to XXVIII shall not be so codified.

Section XIX. Effective Date.

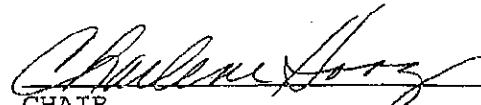
This ordinance shall take effect December 1, 1995 or upon such time as Martin County Comprehensive Plan Amendment #94-11 is effective whichever is later.

DULY PASS AND ADOPTED THIS 25th DAY OF JULY, 1995.

ATTEST:

BOARD OF COUNTY COMMISSIONERS OF  
MARTIN COUNTY, FLORIDA

  
MARSHA STILLER, CLERK

  
CHAIR

APPROVED AS TO FORM AND  
CORRECTNESS:

  
COUNTY ATTORNEY



# IMPACT FEE SCHEDULE

DWELLING UNIT SIZE IN SQUARE FEET*	COST PER UNIT	COST PER UNIT MARTIN DOWNS**
800 & Under	\$628.26	\$448.18
801 - 1,100	\$938.23	\$665.16
1,101 - 2,300	\$973.18	\$689.63
2,301 & Over	\$1,006.03	\$712.62

\*Size is based on "living area." Detached living area will be included in total living area unless it constitutes a separate dwelling unit. Guest houses do not constitute a separate dwelling unit.

\*\*Fees reduced to offset land dedication. *Supplementary Agreement* recorded at O.R. Book 584, Page 1368.

## ATTACHMENT A

