

ORDINANCE NO. 2020 - _____

AN ORDINANCE RELATING TO SANTA ROSA COUNTY, FLORIDA, AMENDING CHAPTER _____ OF THE SANTA ROSA COUNTY, FLORIDA, CODE; RELATING TO THE CREATION OF AN EDUCATIONAL FACILITIES IMPACT FEE; PROVIDING A SHORT TITLE, AUTHORITY, AND APPLICABILITY; PROVIDING INTENT AND PURPOSE; PROVIDING DEFINITIONS; PROVIDING FOR IMPOSITION OF AN EDUCATIONAL FACILITIES IMPACT FEE; PROVIDING A FEE SCHEDULE; PROVIDING FOR PAYMENT OF FEES AND FOR CREDITS; PROVIDING FOR USE OF FUNDS COLLECTED; PROVIDING EXEMPTIONS; PROVIDING FOR APPEALS; PROVIDING FOR CONFLICTS OF LAW; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA ROSA COUNTY, FLORIDA:

SECTION 1. SHORT TITLE, AUTHORITY, AND APPLICABILITY.

(a) This Ordinance shall be known and may be cited as the “Santa Rosa County Educational Facilities Impact Fee Ordinance.”

(b) The Board of County Commissioners has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida, and Chapter 125 and Sections 163.3201 and 163.3202, Florida Statutes.

(c) This Ordinance shall apply to all areas of the County in a manner consistent with the opinion of the Florida Supreme Court in *St. Johns County v. Northeast Florida Builders Association, Inc.*, 583 So.2d 635 (Fla. 1991).

SECTION 2. INTENT AND PURPOSE.

(a) This Ordinance is intended to implement and be consistent with the Santa Rosa County Comprehensive Plan.

(b) The purpose of this Ordinance is to regulate the use and development of land so as to assure that new development bears a proportionate share of the cost of capital expenditures necessary to provide adequate public educational facilities as contemplated by the Santa Rosa County Comprehensive Plan.

(c) This Ordinance is intended to implement the polices established in Section 1013.33, Florida Statutes.

(d) Through enactment of Chapters 163 and 380, and Sections 163.31801 and 163.3202, Florida Statutes, the Florida Legislature has encouraged local governments to enact impact fees as a part of their land development regulation programs.

SECTION 3. DEFINITIONS. The following words, terms, and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Affordable housing means a residential unit that is offered for sale or rent to low-income persons or very-low-income persons and for which monthly rent or monthly mortgage payments,

including taxes, insurance, and utilities, do not exceed thirty percent (30%) of the amount that represents the percentage of the median adjusted gross income for low-income persons and very-low-income persons.

Building permit means the permit required for new construction, additions, and renovations pursuant to the land development regulations of Santa Rosa County, Florida.

Capital costs of educational facilities means 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 equipment.

County means Santa Rosa County, a political subdivision of the State of Florida.

County Administrator means the County Administrator of Santa Rosa County, Florida, or the County official that the County Administrator may designate to administer the various provisions of this Ordinance.

Feepayer means a person commencing a land development activity by applying for the issuance of a building permit to construct a residential unit or to install a mobile home.

Low-income persons means one or more natural persons, the total adjusted gross household income of whom does not exceed eighty percent (80%) of the median adjusted gross income for households within the metropolitan statistical area covering the County, as reported by the United States Department of Housing and Urban Development or its governmental successor in function.

Owner means the natural person, corporation, partnership, incorporated association, or other similar entity holding legal title to the real property upon which a residential unit is to be built or installed.

Residential unit means any building or structure or portion thereof, or any mobile home, that is designed for or used for residential purposes by a single housekeeping unit.

School Board means The School Board of Santa Rosa County, Florida, that, in accordance with the provisions of Article IX, Section 4(b), of the State Constitution, shall operate, control, and supervise all free public schools in its district and may exercise any power except as expressly prohibited by the State Constitution or general law.

Superintendent means the Superintendent of Schools for the School District of Santa Rosa County, Florida, elected in accordance with the provisions of Article IX, Section 5, of the State Constitution, or the School District official that the Superintendent may designate to administer the various provisions of this Ordinance.

Very-low-income persons means one or more natural persons, the total adjusted gross household income of whom does not exceed fifty percent (50%) of the median adjusted gross income for households within the metropolitan statistical area covering the County, as reported by the United States Department of Housing and Urban Development or its governmental successor in function.

SECTION 4. IMPOSITION OF FEE.

Except as provided in Section 9 of this Ordinance, any person who, after the effective date of this ordinance, seeks to make any improvement to land by applying for a building permit for a residential unit or to install a mobile home used for residential purposes shall be required to pay an educational facilities impact fee in the amount set forth in this article. No such building permit shall be issued unless and until the educational facilities impact fee imposed by this Ordinance has been paid pursuant to Section 6.

SECTION 5. FEE SCHEDULE.

(a) The amount of the educational facilities impact fee imposed as provided in this Ordinance shall be determined by the following fee schedule:

SCHEDULE OF EDUCATIONAL FACILITIES IMPACT FEES

<u>Land Use Type</u>	<u>Impact Fee Per Unit</u>
Single Family	\$5,000
Mobile Home	\$4,000
Multi-Family	\$2,750

(b) If the type of residential development activity for which a building permit is applied is not specified on the above fee schedule, the County Administrator, in consultation with the Superintendent, shall use the fee applicable to the most nearly comparable type of land use on the schedule.

SECTION 6. PAYMENT OF FEES; CREDITS.

(a) The person applying for the issuance of a building permit for a residential unit shall pay the fee to the County Administrator prior to the issuance of a building permit.

(b) In lieu of all or part of an educational impact fee payable pursuant to this Ordinance, the School Board may accept an offer of a feepayer to dedicate or convey land to the School Board for school sites. If the School Board accepts such an offer, it shall so inform the County Administrator, who shall credit the amount indicated by the School Board against the sum otherwise due. Except as provided in subsection (c) of this Section, the fee or portion thereof satisfied by the dedication or conveyance shall be deemed paid when the dedication or conveyance has occurred pursuant to the following procedure:

(1) The delivery to the School Board of a title insurance commitment, to insure the property in a sum to be agreed upon by the Board.

(2) The delivery to the School Board of a deed, with sufficient funds to pay all costs of transfer of title including recording.

(3) The escrow of real property taxes for the current year, pursuant to Section 196.265, Florida Statutes, as the same may be amended, or the payment of the taxes for the year.

(4) The issuance of a title insurance policy subsequent to recording of the deed and escrow or payment of real property taxes.

(c) Notwithstanding the procedure set forth in subsection (b) of this Section, the educational impact fee credit allowed for property that is the subject of an impact fee agreement between the School Board and the feepayer or the feepayer's predecessor in interest shall be determined as provided in such agreement.

(d) Pursuant to Section 380.06(5), Florida Statutes, the value of educational capital facilities required pursuant to a County-approved development order shall be credited against the educational facilities impact fee.

(e) Credit for contributions, payments, construction, or dedications of the educational facilities impact fee shall not be transferable as a credit against any other impact fee levied for purposes other than for educational facilities. No credit shall exceed the amount due for the educational facilities impact fee.

(f) If an educational facilities impact fee is owed by a feepayer for any residential unit in the County, no building permit of any type may be issued to that feepayer for any residential building or structure in the County while the fee remains unpaid. The County Administrator, in

consultation with the Superintendent, may authorize the initiation of any action as permitted by law or equity to collect the unpaid fees.

(g) The County retains the right independently to determine the amount of credit to be recommended by securing other engineering and construction cost estimates or property appraisals for the proposed land dedication. In every case, educational facilities impact fee credits must be calculated so as to be consistent with the provisions of Section 163.31801, Florida Statutes.

SECTION 7. USE OF FUNDS COLLECTED.

(a) The funds collected by the County under this Ordinance shall be remitted at least monthly to the School Board. The County as the collecting governmental unit shall be entitled to retain up to but not more than three percent (3%) of the funds collected, not to exceed actual costs, to compensate for the administrative expense of collecting and administering this Ordinance.

(b) The funds collected and transmitted to the School Board shall be segregated from other School Board funds, in a separate accounting fund, and spent solely on capital improvements to the educational facilities necessitated by new development consistent with the provisions of Section 163.31801, Florida Statutes, and shall not be used for any expenditure needed to eliminate existing deficiencies or that would be classified as a maintenance or repair expense. At least every three (3) years, the School Board shall submit to the County a report summarizing all expenditures of funds and demonstrating that all expenditures comply with requirements of Florida law. The first report shall be due three (3) years from the effective date of this Ordinance.

(c) Audits of the financial statements of the School Board that are performed by a certified public accountant pursuant to Section 218.39, Florida Statutes, and submitted to the Florida Auditor General shall include an affidavit signed by the chief financial officer of the School Board stating that the School Board has complied with Section 163.31801, Florida Statutes.

(d) The Board of County Commissioners and the School Board will enter an appropriate interlocal agreement to provide for the collection of fees imposed and to ensure proper use of the funds collected pursuant to this Ordinance. The interlocal agreement will include provisions whereby the School Board agrees (i) to indemnify and hold the County and its officers and employees harmless from and against all liability, claims and suits, costs, and attorneys' fees in any manner connected with this Ordinance or any future amendment of successor ordinance, unless caused by the sole negligence of the County, (ii) to provide any legal defense necessary at no cost to the County or its officers or employees, and (iii) to pay any refund of educational facilities impact fees as may be ordered by any court or agreed to by the School Board, solely at the expense of the School Board.

SECTION 8. REFUND OF FEES PAID.

(a) If a building permit expires and no certificate of occupancy has been issued, then the feepayer, his or her heirs, successors or assigns, shall be entitled to a refund of the portion of the impact fee paid in cash and remitted to the School Board as a condition for its issuance, except that the School Board shall retain up to three percent (3%) of the fee, not to exceed actual costs, to offset the costs of processing the refund. This administrative fee is in addition to the three percent (3%) retained by the County as the collecting government entity in accordance with Section 7(a) of this Ordinance. In order to receive a refund from impact fees paid on or after the effective date of this Ordinance, the request must be made within three (3) years of when the permit expired.

(b) Any funds not expended or encumbered by the end of the calendar quarter immediately following ten (10) years from the date the educational facilities impact fee was paid shall, upon application of the feepayer, be returned to with interest at the rate of three percent (3%) per annum, upon application of the feepayer within 180 days of that date.

SECTION 9. EXEMPTIONS.

(a) The following shall be exempted from payment of the educational facilities impact fee:

(1) The construction of a non-residential building or structure.

(2) Alteration or expansion of an existing residential building where no additional residential unit is created and where the use is not changed.

(3) The construction of accessory buildings or structures that will not produce additional living units.

(4) The replacement of an existing lawfully permitted residential land use unit with a new unit of the same type and use provided that no additional living unit will be produced.

(5) The construction of residential units in subdivisions, mobile home or manufactured housing parks, and multi-family dwellings that are operated as a community for older persons, in compliance with the terms and provisions of the Federal Fair Housing Act, Title VIII of the Civil Rights Act 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., Sections 3601 through 3619, that also prohibit persons under the age of eighteen (18) years from residing within the residential units on the property as a permanent resident. This restriction must be evidenced by a recorded declaration of enforceable covenants and restrictions that are not subject to revocation or amendment for a period of at least thirty (30) years from the date of recording. The covenants and restrictions must run with the land.

(6) Subject to the availability of School Board funds to pay for each exemption, any residential unit that qualifies as affordable housing and meets the following requirements:

A. Any feepayer seeking an affordable housing exemption shall file with the Superintendent an application for exemption prior to receiving a building permit for the proposed residential unit. The application for exemption shall contain the following:

1. The name and address of the owner;

2. The legal description of the residential unit;

3. The proposed selling price or the proposed rental price, as applicable, of the residential unit; and

4. Evidence that the residential unit shall be occupied by low-income persons or very-low-income persons, including the form of restrictions to be contained within the deed as required by Section 9(a)(6)B of this Ordinance.

B. For a residential unit to receive an affordable housing exemption, it must meet all of the restrictions of affordable housing as provided in this Ordinance and these restrictions must continue for a period of at least eight (8) years from the date of issuance of a certificate of occupancy for the residential unit. Such restrictions must be contained within the deed for the residential unit.

C. If the residential unit meets the requirements for an affordable housing exemption, the Superintendent shall issue a written exemption to the feepayer. The exemption shall be presented to the County upon application for a building permit for the residential unit and in lieu of payment of the educational facilities impact fee.

D. The amount of the educational facilities impact fee shall not be increased to replace any revenue lost due to the affordable housing exemption.

E. In the event the residential unit fails to meet the restrictions of affordable housing as provided in this Ordinance at any time within the eight (8) year period following 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 educational facilities impact fee in effect at the time of the change in circumstances shall be due and the provisions of Section 6(f) of this Ordinance shall apply.

(b) An exemption must be claimed by the feepayer at the time of the issuance of a building permit for a residential unit. Any exemption not so claimed shall be deemed waived by the feepayer.

SECTION 10. APPEALS.

(a) Any decision made by the County Administrator or the Superintendent in the course of administering the provisions of this Ordinance may be appealed to the School Board by filing a petition of appeal within thirty (30) calendar days of the date of the rendition of the decision.

(b) The School Board shall review the petition at a public meeting within thirty (30) calendar days from the date of appeal of the County Administrator's or Superintendent's decision. The petitioner shall be provided reasonable notice of the time, date, and place of the public meeting by certified mail, return receipt requested, and invited to attend. Testimony at the public meeting shall be limited to ten (10) minutes per side, unless an extension of time is granted by the School Board. The School Board's decision shall be final for the purpose of administrative appeals.

(c) The School Board shall revoke the decision of the County Administrator or the Superintendent only if there is competent, substantial evidence in the record that the decision fails to comply with this Ordinance.

SECTION 11. CONFLICTS OF LAW. Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements shall apply.

SECTION 12. SEVERABILITY. The provisions of this Ordinance shall be deemed to be separate and independent of all other provisions herein and if any provision of this Ordinance is declared invalid or void for any reason, the validity thereof shall not affect the remaining provisions of this Ordinance.

SECTION 13. CODIFICATION. The provisions of this Ordinance shall become and be made a part of the code of laws and ordinances of the County of Santa Rosa. The sections of this Ordinance may be renumbered or re-lettered, and the word "ordinance" may be changed to "section," "article," or other appropriate word or phrase, to accomplish codification.

SECTION 14. EFFECTIVE DATE. A certified copy of this Ordinance shall be filed in the office of the Secretary of State within ten (10) days after enactment, and this Ordinance shall take effect (a) upon receipt of official acknowledgment from that office that said Ordinance has been filed, or (b) ninety (90) days after provision of the notice required by Section 163.31801, Florida Statutes, whichever last occurs.

PASSED AND ADOPTED by a vote of ___ yeas, ___ nays, and ___ absent of the board of County Commissioners of Santa Rosa County, Florida, on the ___ day of _____, 2020.

**BOARD OF COUNTY COMMISSIONERS
SANTA ROSA COUNTY, FLORIDA**

By: _____
W. D. "Don" Salter, Chairman

ATTEST:

Donald C. Spencer, Clerk of Court

I, Donald C. Spencer, Clerk of Court of Santa Rosa County, Florida, do hereby certify that the same was adopted and filed of record and sent electronically to the Secretary of State of Florida, on this ___ day of _____, 2020.

Donald C. Spencer, Clerk of Court