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GLADES COUNTY ORDINANCE # _____

PUBLIC EDUCATIONAL IMPACT FEE ORDINANCE

AN ORDINANCE RELATING TO THE REGULATION OF THE USE AND DEVELOPMENT OF LAND IN THE UNINCORPORATED AND INCORPORATED AREAS OF GLADES COUNTY, FLORIDA; IMPOSING AN IMPACT FEE ON LAND DEVELOPMENT IN GLADES COUNTY FOR PROVIDING ADDITIONAL PUBLIC EDUCATIONAL CAPACITY AND RELATED FACILITIES NECESSITATED BY SUCH NEW DEVELOPMENT; STATING THE AUTHORITY FOR ADOPTION OF THE ORDINANCE; PROVIDING DEFINITIONS; PROVIDING FINDINGS AND DECLARATIONS OF THE BOARD OF COUNTY COMMISSIONERS; PROVIDING FOR THE PAYMENT AND TIME OF PAYMENT OF A PUBLIC EDUCATIONAL IMPACT FEE; PROVIDING FOR REVIEW AND ADJUSTMENT OF PUBLIC EDUCATIONAL IMPACT FEES AND THE FEE SCHEDULES; PROVIDING FOR THE ESTABLISHMENT OF PUBLIC EDUCATIONAL IMPACT FEE DISTRICTS; PROVIDING FOR THE PLACEMENT OF REVENUE COLLECTED FROM PUBLIC EDUCATIONAL IMPACT FEES INTO PUBLIC EDUCATIONAL IMPACT FEE TRUST FUNDS ESTABLISHED FOR THAT PURPOSE; PROVIDING FOR EXEMPTIONS AND CREDITS; PROVIDING FOR REFUND OF UNEXPENDED FUNDS; PROVIDING FOR USE OF FUNDS DERIVED FROM PUBLIC EDUCATIONAL IMPACT FEES; PROVIDING THAT PUBLIC EDUCATIONAL IMPACT FEES MAY BE PLEDGED TOWARD PAYMENT OF BOND ISSUES AND SIMILAR DEBT INSTRUMENTS; PROVIDING FOR CREDITS AGAINST IMPACT FEES FOR DONATIONS; PROVIDING FOR AUTOMATIC ADJUSTMENT OF IMPACT FEES; PROVIDING FOR PENALTIES FOR VIOLATION OF THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

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

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2Section One: Legislative Findings

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4The Board of County Commissioners of the Glades County finds, determines and declares
5that:

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- A. The Glades County School Board has determined that they are not able to provide adequate educational facilities to new public school enrollees with the available resources.

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- B. Glades County must expand the capacity of its public educational system in order to maintain current levels of service if new development is to be accommodated without decreasing current levels of service. This must be done in order to promote and protect the health, safety and welfare of both existing and new residents and businesses;

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- C. The Florida Legislature, through the enactment of Florida Statutes Chapter 163.3202 (3), has sought to encourage Glades County to enact impact fees;

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- D. The imposition of impact fees is one of the preferred methods of ensuring that development bears a proportionate share of the cost of capital facilities necessary to accommodate such development. This must be done in order to promote and protect the public health, safety and welfare;

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- E. Each of the types of land development described in Section Seven hereof, will generate additional public school enrollment necessitating the acquisition of land, school facility construction and ancillary improvements;

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- F. The fees established by Section Seven are derived from, are based upon, and do not exceed a pro rata share of the costs of providing additional acquisition of land, school facility construction and ancillary improvements necessitated by the new land developments for which the fees are levied; and

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- G. The report entitled "Technical Memorandum on the Methods of Calculating Roads, Parks, Educational and Emergency Medical Impact Fees," prepared for Glades County, Florida", dated March 14, 2006, sets forth a reasonable methodology and analysis for the determination

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of the impact of new development on the need for and costs for additional acquisition of land, school facility construction and ancillary improvements in Glades County.

8Section Two: Short Title, Authority and Applicability.

9

10 A. This ordinance shall be known and may be cited as the "Glades
11 County Public Educational Impact Fee Ordinance."

12

13 B. The Board of County Commissioners of Glades County has the
14 authority to adopt this ordinance pursuant to Article VII of the
15 Constitution of the State of Florida, and Chapters 125, 163.3201,
16 1013.36 and 1013.33 of the Florida Statutes.

17

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19Section Three: Intents and Purposes

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21 A. This ordinance is intended to assist in the implementation of the Glades
22 County Comprehensive Plan.

23

24 B. The purpose of this ordinance is to regulate the use and development of
25 land so as to assure that new development is provided with needed
26 expansions of public educational capacity and that new development bears
27 a proportionate share of the cost of capital expenditures necessary to
28 provide that expansion of public educational capacity.

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31Section Four: Rules of Construction

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

36

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

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41 (1) In case of any difference of meaning or implication between the text of

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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) Words expressed in the feminine gender shall include the masculine and words expressed in the masculine gender shall include the feminine.
- (5) The phrase "used for" includes "arranged for", "designed for", "maintained for", or "occupied for".
- (6) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
- (7) 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 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.
- (8) 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.
- (9) "Impact Fee Administrator" means the County Manager or any county or municipal officials he/she may designate to carry out the administration of this ordinance.

1 (10) All terms relating to types of development shall have the same
2 meaning as established in the Glades County Land Development Code.
3

4 **Section Five: Definitions**

- 5
- 6 A. A “feepayer” is a person commencing a land development activity within
7 Glades County which may reasonably be expected to house public school
8 attendees and which requires the issuance of a building permit by Glades
9 County or a municipality within Glades County.
- 10
- 11 B. “Building permit” is the approval issued by Glades County or any
12 municipality within Glades County that authorizes the construction or
13 placement of a building, dwelling, mobile home, recreational vehicle or
14 other structure on a site.
- 15
- 16 C. A “capital improvement” includes preliminary engineering, engineering
17 design studies, land surveys, land acquisition, engineering, permitting and
18 construction of all the necessary features for any public educational con-
19 struction project including, but not limited to:
- 20
- 21 (1) Improvements to land,
- 22
- 23 (2) Construction of new classrooms,
- 24
- 25 (3) Construction of new ancillary facilities, including food service,
26 administrative and maintenance facilities
- 27
- 28 (4) Acquisition of new school buses,
- 29
- 30 (5) Construction of new or expanded athletic or recreational facilities used
31 for public educational purposes,
- 32
- 33 (6) Purchase and installation of capital equipment,
- 34
- 35 D. “Land Development Activity Generating Public School Enrollment”
36 means any change in land use or any construction of buildings or
37 structures or any change in the use of any structure that may reasonably be
38 expected to house public school attendees.
- 39
- 40 E. “School or Public Educational Facility” shall have the same meaning as
41 set forth in the Florida Statutes.
42

- 1 F. “Student Station” shall have the same meaning as set forth in the Florida
2 Statutes.
3
- 4 G. “Capital Equipment” shall have the same meaning as set forth in the
5 Florida Statutes.
6
- 7 H. “Independent Fee Calculation Study” means the documentation prepared
8 by a feepayer or on behalf of a feepayer to allow the determination of the
9 impact fee other than by the use of the table in Section Seven (A) of this
10 ordinance.
11
- 12 I. “Level of Service” is the ratio of student enrollment to the capacity of the
13 Glades County schools, as measured by the Florida Inventory of School
14 Houses.
15
- 16 J. “Development Order” means a regulatory approval for the development or
17 land by issued by Glades County or any municipality within Glades
18 County.
19
- 20 K. “Mandatory or Required dedications and/or public educational
21 improvements” means such non-compensated dedications and/or public
22 educational improvements required by Glades County or by any
23 municipality within Glades County.
24

25 **Section Six: Imposition of Public Educational Impact Fee**

- 26
- 27 A. Any person who, after the effective date of this Ordinance, seeks to
28 develop land within Glades County, Florida, by applying for a building
29 permit or an the extension of a building permit to make an
30 improvement to land is hereby required to pay a public educational
31 impact fee in the manner and amount set forth in this ordinance.
32
- 33 B. No new building permit for any activity requiring payment of an
34 impact fee pursuant to Section Seven of this ordinance shall be issued
35 by Glades County or any municipality within Glades County unless
36 and until the public educational impact fee hereby required has been
37 paid.
38
- 39 C. No extension of a building permit shall be granted unless and until the public
40 educational impact fee hereby required has been paid.

1 **Section Seven: Computation of the Amount of Public Educational Impact**
2 **Fee**

3
4 A. At the option of the feepayer, the amount of the public educational impact fee
5 may be determined by the following fee schedule. The amounts shown include a 3% charge
6 to cover the costs of administering the Educational Impact Fee program.

7

LAND USE TYPE (UNIT)	Fee
RESIDENTIAL:	
Single Family Detached Unit	\$4,322
Multi-Family Unit	\$2,752
Mobile Home Unit in a Mobile Home Park	\$2,828
Recreational Vehicle	\$0
NON-RESIDENTIAL	No fee

- 8
9
10 (1) If a building permit is requested for mixed uses, then the fee shall be
11 determined through using the applicable impact fee schedule by
12 apportioning the development committed to uses specified on the
13 applicable impact fee schedule.
14
15 (2) For applications for an extension of a building permit, the amount of
16 the fee is the difference between that fee then applicable or paid when
17 the permit was originally issued and the fee due pursuant to this
18 ordinance.
19
20 (3) If the type of development activity that a building permit is applied
21 for is not specified on the applicable fee schedule, the Impact Fee
22 Administrator shall use the fee applicable to the most nearly
23 comparable type of land use on the impact fee schedule.
24
25 (4) If the Impact Fee Administrator determines that there is no comparable
26 type of land use on the applicable impact fee schedule then the Impact
27 Fee Administrator shall determine the fee by:
28
29 (a) using student generation statistics provided by the Glades
30 County School Board or the Florida Department of Education
31 and;
32
33 (b) applying the formula set forth in Section Seven (B) hereof;
34 and
35
36 (c) making any appropriate adjustments to the fee pursuant to

Section Fourteen of this Ordinance.

(5) In the case of change of use, redevelopment, or expansion or modification of an existing use which requires the issuance of a building permit, the impact fee shall be based upon the net positive increase in the impact fee for the new use as compared to the previous use. The Impact Fee Administrator shall be guided in this determination by the Glades County School Board.

B. If a feepayer opts not to have the impact fee determined according to paragraph (A) of this section, then the feepayer shall prepare and submit to the Impact Fee Administrator an independent fee calculation study for the land development activity for which a building permit is sought. The independent fee calculation study shall follow the prescribed methodologies and formats for the study established set out below. The demographic documentation submitted shall show the basis upon which the independent fee calculation was made, including but not limited to the following:

Demographic Studies:

- (1) Documentation of public school student occupancies appropriate for the proposed land development activity.
- (2) Documentation of the permanency of the public school student occupancies.
- (3) Documentation of any other data appropriate for the proposed land development activity.

Independent fee calculation studies shall be prepared and presented by professionals qualified in their respective fields and employ methods recognized within those respective fields. The Impact Fee Administrator shall consider the documentation submitted by the feepayer but is not required to accept such documentation as he/she shall reasonably deem to be inaccurate or not reliable and may, in the alternative, require the feepayer to submit additional or different documentation for consideration. If an acceptable independent fee calculation study is not presented, the feepayer shall pay public educational impact fees based upon the schedules shown in paragraph (A) of this section. Determinations made by the Impact Fee Administrator pursuant to this paragraph may be appealed to the Board of County Commissioners by filing a written request with the County Manager within ten (10) days of the Impact Fee Administrator's determination.

Section Eight: Payment of Fee

- 1 A. The feepayer shall pay the public educational impact fee required by
2 this ordinance to the Impact Fee Administrator or his/her designee
3 prior to the issuance of a building permit.
4
- 5 B. All funds collected shall be properly identified by public educational
6 impact fee district and promptly transferred for deposit in the
7 appropriate Public Educational Impact Fee Trust Fund to be held in
8 separate accounts as determined in Section Ten of this ordinance and
9 used solely for the purposes specified in this ordinance.
10
- 11 C. The collecting governmental entity shall be entitled to retain three (3)
12 percent of all impact fee funds it collects to offset the costs of
13 administering and enforcing this ordinance.
14
15

16**Section Nine: Public Educational Impact Fee Districts**

17

18There is hereby established one (1) public educational impact fee district, which shall be the
19entirety of Glades County.

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22**Section Ten: Public Educational Impact Fee Trust Funds Established**

23

- 24 A. There is hereby established one (1) separate Public Educational Impact
25 Fee Trust Funds,
26
- 27 B. In the event that additional Public Educational Impact Fee Districts are
28 established, there shall be one Public Educational Impact Fee Trust
29 Fund for each public educational impact fee district established by
30 Section Nine of this Ordinance.
31
- 32 C. Funds withdrawn from these accounts must be used in accordance with
33 the provisions of Section Eleven of this ordinance.
34

35**Section Eleven: Use of Funds**

36

- 37 A. Funds collected from public educational impact fees shall be used for
38 the purpose of capital improvements to and expansion of the public
39 educational facilities in Glades County.
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- 41 B. No funds shall be used for periodic or routine maintenance.

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- C. Funds shall be used exclusively for capital improvements or expansion within the public educational impact fee district from which the funds were collected or for projects in other public educational impact districts which are of benefit to the district from which the funds were collected.
- D. Funds shall be expended in the order in which they are collected.
- E. In the event that bonds or similar debt instruments are issued for advanced provision of capital facilities for which public educational 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 described in paragraph A of this section and are located within the appropriate impact fee districts created by Section Nine of this ordinance or as provided in paragraph C of this section.
- F. Impact fees may be rebated to any person when that person donates any improvement shown in A. above if the reasonable value of that donation is greater than the impact fees available for credit for the donation.
- G. At least once each fiscal period the County Manager shall transfer public educational impact fees to the Glades County School Board, which shall deposit those receipts in designated trust funds and expend those funds in a manner consistent with this ordinance.
- H. The Glades County School Board shall annually propose public educational capital improvements, assigning funds, including any accrued interest to specific public educational improvement projects and related expenses. Monies, including any accrued interest, not assigned in any fiscal period shall be retained in the same Public Educational Impact Fee Trust Funds established by the Glades County School Board until the next fiscal period except as provided by the refund provisions of this ordinance.
- I. The Glades County School Board shall annually report to the Board of County Commissioners and to the governing body of each municipality the collections and expenditure of public educational impact fees.
- J. Funds may be used to provide refunds as described in Section Twelve.
- K. The Glades County Board of County Commissioners and the School

1 Board will enter appropriate interlocal agreements between or among
2 themselves and the governing bodies of the municipalities in the
3 County to provide for the collection of fees imposed and to ensure
4 proper use of the funds collected pursuant to this article.
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7 **Section Twelve: Refund of Fees Paid**
8

- 9 A. If a building permit expires without commencement of construction,
10 then the feepayer shall be entitled to a refund, without interest, of the
11 impact fee paid as a condition for its issuance except that the School
12 Board shall retain five percent (5%) of the fee to offset a portion of the
13 costs of collection and refund. The feepayer must submit an
14 application to the School Board for such a refund within 30 days of the
15 expiration of the permit.
16
- 17 B. Any funds not expended or encumbered by the end of the calendar
18 quarter immediately following six (6) years from the date the public
19 educational impact fee was paid shall, upon application of the then
20 current landowner, be returned to such landowner with interest at the
21 rate of six percent (6%) per annum, provided that the landowner
22 submits an application to the School Board of Glades County for a
23 refund within 180 days of the expiration of the six year period.
24
25

26 **Section Thirteen: Exemptions From Payment of Impact Fees**
27

28 The following shall be exempted from payment of the impact fee:
29

- 30 A. Alterations or expansion of an existing building where no additional
31 dwelling units are created, where the use is not changed, and where no
32 additional public school attendees may be in residence in the altered or
33 expended building over and above those of the existing use.
34
- 35 B. The construction of buildings or structures which will not be used for
36 permanent human occupancy.
37
- 38 C. The replacement of a destroyed or partially destroyed building or
39 structure with a new building or structure of the same size and use
40 provided that no additional public school attendees may be in
41 residence which exceeds that at the original use of the land. In the
42 event that a destroyed or partially destroyed building or structure is
41

1 replaced with a larger building or structure at which additional public
2 school attendees may be in residence, the amount of the impact fee due
3 is the positive difference between the impact fee for the new use as
4 compared to the previous use.
5

- 6 D. The installation of a replacement mobile home or recreational vehicle
7 on a lot or other such site when a public educational impact fee for
8 such mobile home or recreational vehicle site has previously been paid
9 pursuant to this ordinance or where a mobile home or recreational
10 vehicle legally existed on such site on or prior to the effective date of
11 this ordinance.
12

13 Any claim of exemption must be made no later than the time of application for a building
14 permit. Any claim not so made shall be deemed waived.
15

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17 **Section Fourteen: Credits Against Payment of Impact Fees**

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- 19 A. All mandatory or required dedications and/or public educational impro-
20 vements made by a feepayer or the predecessor in interest to the feepayer,
21 subsequent to the effective date of this ordinance shall be credited on a pro
22 rata basis against public educational impact fees otherwise due or to become
23 due for the development that prompted the County or the municipality within
24 Glades County to require such dedications or improvements. Such credits
25 shall be determined and provided as set forth in this Section.
26

- 27 B. A feepayer may obtain credit against all or a portion of public educational
28 impact fees otherwise due or to become due by offering to dedicate land
29 and/or construct public educational improvements. This offer must
30 specifically request or provide for a public educational impact fee credit. Such
31 construction must be in accordance with School District or State design stan-
32 dards, which ever is applicable. If the Impact Fee Administrator accepts such
33 an offer, whether the acceptance is before or after the effective date of this
34 ordinance, the credit shall be determined and provided in the following
35 manner:
36

- 37 (1) Credit for the dedication of land shall be valued at (i) 115% of the
38 most recent assessed value by the Property Appraiser, or (ii) by such
39 other appropriate method as the School Board may have accepted prior
40 to the effective date of this ordinance for particular land dedications
41 and/or public educational improvements, or (iii) at the option of the
42 feepayer, by fair market value established by private appraisers

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1 acceptable to the School Board. Credit for the dedication of land shall
2 be provided when the property has been conveyed at no charge to, and
3 accepted by, the Glades County School Board or by another
4 appropriate entity.
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6 (2) Applicants for credit for construction of public educational
7 improvements shall submit acceptable engineering drawings and
8 specifications, and construction cost estimates to the Impact Fee
9 Administrator. The Impact Fee Administrator shall consult with the
10 Glades County School Board and determine credit for public
11 educational construction based upon either these cost estimates or
12 upon alternative engineering criteria and construction cost estimates if
13 the Impact Fee Administrator determines that such estimates submitted
14 by the applicant are either unreliable or inaccurate. The Impact Fee
15 Administrator shall provide the applicant with a letter or certificate
16 setting forth the dollar amount of the credit, the reason for the credit,
17 and the legal description or other adequate description of the project or
18 development to which the credit may be applied. The applicant must
19 sign and date a duplicate copy of such letter or certificate indicating
20 his/her agreement to the terms of the letter or certificate and return
21 such signed document to the Impact Fee Administrator before credit
22 will be given. The failure of the applicant to sign, date, and return
23 such document within 60 days shall nullify the credit.
24

25 (3) Except as provided in subparagraph (4), Credit against impact fees
26 otherwise due will not be provided until the construction is completed
27 and accepted by the Glades County School Board, or the State, whic-
28 hever is applicable.
29

30 (4) Credit may be provided before completion of specified public
31 educational improvements if the applicant provides the Glades County
32 School Board with adequate assurances that the standards set out
33 above will be met.
34

35 (5) A successor in interest may claim credit for dedication if that
36 successor can show adequate documentation that such credit is
37 appropriately due to the feepayer making the application for credit
38 against impact fees otherwise due.
39

40 C. Any claim for credit must be made no later than the time of application for a
41 building permit. Any claim not so made shall be deemed waived.
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43 D. Credits shall not be transferable from one project or development to another
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1 without the approval of the School Board of Glades County.

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3 E. Determinations made by the Impact Fee Administrator pursuant to the credit
4 provisions of this section may be appealed to the Board of County
5 Commissioners by filing a written request with the County Manager with ten
6 (10) days of the Impact Fee Administrator's determination.

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8 **Section Fifteen: Automatic Update of Fee Schedule**

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10 A. The impact fee schedules shown in Section Seven A above shall be adjusted by
11 the County Manager in April of each calendar year. Unless otherwise directed by
12 the Board of County Commissioners, any adjustments to the impact fee schedules,
13 made pursuant to this section, shall be effective the first Monday in October of
14 each calendar year. All adjustments to the impact fees shall be based on the
15 methodology described in paragraph B of this section.

16

17 B. The base for computing any adjustment is the January Consumer Price Index - All
18 Urban Consumers for the United States, published by the United States
19 Department of Labor, Bureau of Labor Statistics. For the purpose of this Section
20 the initial index to be referenced is January of the last year when the impact fees
21 were updated with cost or demographic data.

22

23 C. If the index is changed so that the base year is different, the index shall be
24 converted in accordance with the conversion factor published by the United States
25 Department of Labor, Bureau of Labor Statistics. If the index is discontinued or
26 revised, such other government index or computation with which it is replaced
27 shall be used in order to obtain substantially the same result as would be obtained
28 if the index had not been discontinued or revised.

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31 **Section Sixteen: Review**

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33 The fees specified in Section Seven (A) shall be reviewed by the Board of County
34 Commissioners at least once each fiscal biennium.

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39 **Section Seventeen: Penalty Provision**

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41 A violation of this ordinance shall be a misdemeanor punishable according to law;
42 however, in addition to or in lieu of any criminal prosecution, Glades County, or any public

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54 Glades County Public Educational Impact Fee Ordinance

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1 educational impact fee payer, shall have the power to sue for relief in civil court to enforce
2 the provisions of this ordinance. Knowingly furnishing false information to the Impact Fee
3 Administrator, his/her designee, the Building Official or any municipal official who is
4 charged with the administration of this ordinance on any matter relating to the administration
5 of this ordinance shall constitute a violation thereof.

6

7 Section Eighteen: Severability

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

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16 Section Nineteen: Effective Date

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19 This ordinance shall become effective _____, 2006

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23 PASSED AND DULY ADOPTED THIS _____ DAY OF _____, 2006, BY THE
24 BOARD OF COUNTY COMMISSIONERS OF GLADES COUNTY, FLORIDA.

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BOARD OF COUNTY
COMMISSIONERS
OF GLADES COUNTY, FLORIDA

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BY:

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34

K.S. (BUTCH) JONES, CHAIRMAN

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37 ATTEST: _____

38 JOE FLINT, CLERK

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58 Glades County Public Educational Impact Fee Ordinance

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