

HERNANDO COUNTY ORDINANCE 86 - 26

EDUCATIONAL FACILITIES IMPACT FEE ORDINANCE

AN ORDINANCE RELATING TO THE REGULATION OF THE USE AND DEVELOPMENT OF LAND IN HERNANDO COUNTY, FLORIDA; IMPOSING AN IMPACT FEE ON LAND DEVELOPMENT IN HERNANDO COUNTY FOR PROVIDING NEW SCHOOLS 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 IMPLEMENTATION OF THE HERNANDO COUNTY COMPREHENSIVE PLAN; PROVIDING FOR THE PAYMENT OF A SCHOOL IMPACT FEE AS THE PREREQUISITE FOR ISSUANCE OF A BUILDING PERMIT FOR A RESIDENTIAL UNIT OR A MOBILE HOME PERMIT; PROVIDING FOR REVIEW AND ADJUSTMENT OF THE IMPACT FEE; PROVIDING A METHOD OF PAYMENT OF THE FEE; PROVIDING FOR THE REMITTAL OF FEES COLLECTED AND THEIR EXPENDITURE FOR CAPITAL PURPOSES ONLY; PROVIDING FOR REFUND OF UNEXPENDED FUNDS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING AN EFFECTIVE DATE.

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FILED

WHEREAS, the School Board of Hernando County and the Board of County Commissioners of Hernando County are required by §235.19 Florida Statutes to coordinate school site planning and the county's comprehensive plan; and

WHEREAS, §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

WHEREAS, the Hernando County Board of Education has requested the Board of County Commissioners to adopt an educational facilities impact fee to be paid by new development and to be earmarked for the construction of new educational facilities; and

WHEREAS, the Hernando County Comprehensive Plan has determined that land development shall not be permitted unless adequate capital facilities exist or are assured; and

WHEREAS, the Hernando County Comprehensive Plan has determined the policy that land development shall bear

proportionate share of the cost of the provision of the new or expanded capital facilities required by such development; and

WHEREAS, the Hernando County Comprehensive Plan has determined that the imposition of impact fees, one of the preferred methods of regulating land development in order to ensure that it bears a proportionate share of the cost of capital facilities necessary to accommodate that development and to promote and protect the public health, safety, and welfare; and

WHEREAS, the Hernando School Board has determined that property tax revenue generated by new development has not been adequate to support the educational facilities necessary to ensure that current educational facilities standards can be provided concurrently with the occupancy of new development;

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

Section One: Short Title, Authority, and Applicability

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

B. The Board of County Commissioners of Hernando County has the authority to adopt this ordinance pursuant to Article VIII of the Constitution of the State of Florida, and Chapter 125 and Section 163.3201, Section 235.19, and Section 235.193 of the Florida Statutes.

C. This ordinance shall apply to the unincorporated area of Hernando County and to the incorporated areas of Hernando County to the extent permitted by Article VIII Section 1(f) of the Constitution of the State of Florida.

Section Two: Intents and Purposes

A. This ordinance is intended to implement and be consistent with the Hernando 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 educational facilities as contemplated by the Hernando

County Comprehensive Plan.

C. This ordinance is intended to implement the policies established in Florida Statutes Section 235.193.

Section Three: 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 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.
- (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 and/or the county or municipal official he/she may designate to carry out the administration of this ordinance.
- (9) The land use types listed in Section Six shall have the same meaning as under the Hernando County Zoning Regulations.

#### Section Four: Definitions

A. A "feepayer" is a person commencing a land development activity by applying for the issuance of a building permit to construct a residential unit or by applying for a mobile home permit.

B. "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 equipment.

#### Section Five: Imposition of Educational Facilities Impact Fee

A. 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 for a mobile home permit, shall be required to pay an educational facilities impact fee in the amount set forth in this ordinance. No such building permit or mobile home permit shall be issued unless and until the educational facilities impact fee hereby imposed has been paid pursuant to Section Seven of this Ordinance.

Section Six: Computation of the Amount of Educational Facilities Impact Fee

A. At the option of the feepayer, the amount of the fee may be determined by the following fee schedule. The fees shown on the schedule reflect a 15% discount to encourage use of the schedule in order to avoid the expenditure of administrative time on the processing of independent fee calculation studies.

| LAND USE TYPE (UNIT)    | IMPACT FEE<br>PER UNIT |
|-------------------------|------------------------|
| RESIDENTIAL:            |                        |
| SINGLE FAMILY, DETACHED | \$562                  |
| SINGLE FAMILY, ATTACHED | 562                    |
| MULTI FAMILY            | 749                    |
| MOBILE HOME 1 ACRE      | 562                    |
| MOBILE HOME-OTHER       | 443                    |
| OTHER RESIDENTIAL       | 562                    |

If the type of residential development activity a building permit is applied for is not specified on the above fee schedule, the County Administrator shall use the fee applicable to the most nearly comparable type of land use on the above fee schedule.

B. If a feepayer contends the fees in the schedule contained in Section 6A above do not accurately reflect the impact of his development on the need for new educational facilities in Hernando County, the feepayer may present evidence in support of his contention to the School Board of Hernando County which may vary the fee by the amount necessary to properly reflect the true impact of the proposed development. Upon receipt of written notice of any such action by the School Board, Hernando County or the respective municipality shall adjust the fee payable accordingly.

Section Seven: Payment of Fees

A. The person applying for the issuance of a building permit or a mobile home permit shall pay the fee to the County Administrator prior to the issuance of a building permit or mobile home permit. At the option of the feepayer, the feepayer by executing a non-interest bearing promissory note payable to the county or municipality for the amount of the fee which

promissory note shall be paid prior to the final building inspection and the granting of a certificate of occupancy for the development in question.

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. 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 said property in a sum to be agreed upon by the Board.
2. The delivery to the Board of a deed, with sufficient funds to pay all costs of transfer of title including recording.
3. The escrow of taxes for the current year, pursuant to Florida Statutes 196.295 as the same may be amended, or the payment of said taxes for the year.
4. The issuance of a title insurance policy subsequent to recording of the deed and escrow of taxes.

C. Pursuant to Florida Statutes Section 380.06(16)(1985), the value of educational capital facilities required pursuant to a County or City approved Development Order, except those deemed site-related, shall be credited against the Educational Facilities Impact Fee.

Section Eight: Use of Funds

A. The funds collected by Hernando County and municipalities located therein shall be remitted at least monthly to the School Board of Hernando County. The collecting governmental unit shall be entitled to retain up to but not more than 3% of the funds collected to compensate them for the

administrative expense of collecting and administering the Educational Facilities Impact Fee Ordinance.

B. The remaining funds collected and transmitted to the School Board of Hernando County shall be spent solely to meet the educational facilities necessitated by new development.

C. The Board of County Commissioners of Hernando County and the Hernando School Board will enter into appropriate interlocal agreements to ensure proper use of the funds collected pursuant to this ordinance.

Section Nine: Refund of Fees Paid

A. If a building permit or mobile home permit expires, then the feepayer, his heirs, successors or assigns, shall be entitled to a refund of the impact fee paid as a condition for its issuance except that the School Board shall retain three percent (3%) of the fee to offset the costs of refunding.

B. Any funds not expended or encumbered by the end of the calendar quarter immediately following six (6) years from the date the educational impact fee payment was received shall, upon application of the current owner within one hundred and eighty (180) day of the expiration of the six (6) year period, be refunded to the current owner by the Hernando County School Board with interest at the rate of six percent (6%) per annum.

Section Ten: Exemptions

The following shall be exempted from payment of the Public Educational Facilities Impact Fee:

1. Alteration or expansion of an existing residential building where no additional units are created and where the use is not changed.
2. The construction of accessory buildings or structures.
3. The replacement of a residential land use unit with a new unit of the same type and use.

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

Section Eleven: Review

The Educational Facilities Impact Fee schedule shall be reviewed by the Board of County Commissioners of Hernando County at least once each fiscal biennium.

Section Twelve: Penalty 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 Hernando County or any feepayer shall have the power to sue in civil court to enforce the provisions of this ordinance.

Section Thirteen: 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 Fourteen: Inclusion Into the Code

It is the intention of the Board of County Commissioners of Hernando County, Florida, and it is hereby provided, that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of Hernando County, Florida. To this end, the sections of this Ordinance may be re-numbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or other appropriate designation.

Section Fifteen: Effective Date

This ordinance shall become effective January 1, 1987.

PASSED AND DULY ADOPTED THIS 28<sup>th</sup> DAY OF October, 1986.

ATTEST:

(SEAL)

By: Harold William Brown  
Harold William Brown, Clerk

BOARD OF COUNTY COMMISSIONERS  
HERNANDO COUNTY, FLORIDA

By: William T. Koening, III  
William T. Koening, III  
Chairman

Approved as to form and legal  
sufficiency:

[Signature]  
Hernando County Attorney

FILED FOR RECORD  
HAROLD WM. BROWN, CLERK  
HERNANDO COUNTY FLA  
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