

NOTE: additions/deletions = language proposed for addition/deletion to existing Code provisions.

ORDINANCE NO.: 2005-16

AN ORDINANCE AMENDING SUBSECTIONS 23-45(d), 23-68(b), 23-90(d), 23-113(d) AND 23-137(e) OF THE HERNANDO COUNTY CODE OF ORDINANCES RELATING TO PERSONS WHOSE PREPAID IMPACT FEES WERE RECEIVED BY THE BUILDING DEPARTMENT ON OR PRIOR TO JUNE 2, 2005 BY EXTENDING THE TIME IN WHICH TO OBTAIN A VALID BUILDING PERMIT ISSUED BY THE BUILDING DEPARTMENT FROM JUNE 2, 2006 TO JUNE 2, 2008; PROVIDING FOR SEVERABILITY; PROVIDING FOR FULL FORCE AND EFFECT OF REMAINDER; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

2005 SEP 26 PM 1:21

FILED

WHEREAS, on June 2, 2005 and pursuant to ordinance, the Hernando County Board of County Commissioners adopted, among other things, changes to the way that impact fees could be paid and imposing a one year sunset provision on impact fees that were previously prepaid; and,

WHEREAS, the Board of County Commissioners desires to extend the sunset provision relating to impact fees that were prepaid on or before June 2, 2005 from one (1) year to three (3) years subject to the property owner obtaining a valid building permit within said period.

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

SECTION 1. Amending Chapter 23 (Planning), Article III (Impact Fees), Division 1 (Fire Protection and Emergency Medical Services Capital Facilities Impact Fee), Section 23-45(d) (prepayment of impact fees). Section 23-45(d) is hereby amended to read as follows, with any underlined language added and any struck-through language deleted:

(d) Impact fees under this division may not be prepaid after June, 2, 2005. Impact fees are not transferable from one parcel to another. Impact fees that were prepaid on or prior to June 2, 2005 under this division shall vest the parcel for the land use for which the fees are paid from any increase in the fire protection and emergency medical services capital facilities impact fee through the period ending June 2, 2006~~8~~ and further provided that a valid building permit has been issued by the Building Department for said parcel within this period. In the event that the parcel owner does not obtain, or chooses not to obtain, a valid building permit by June 2, 2006~~8~~, then all impact fees previously prepaid against said parcel shall become refundable to the current parcel owner of record, together with interest at the County's average annual rate of return (and calculated from the date the impact fee was paid to the County through the date the County issues a refund check, but no later than June 2, 2006~~8~~); however, nothing herein shall prevent the parcel owner from requesting this refund at any time after June 2, 2005. The current parcel owner of record must file a written request with the County Building Department as a prerequisite to

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1 obtaining this refund. Following June 2, 2006~~8~~, all amounts previously prepaid under this
2 division together with afore-described interest (and not otherwise refunded) shall continue to
3 remain as a credit against future impact fees requirements (the prevailing impact fee rate
4 structure at time of building permitting) as to said parcel, or until such time as a request for
5 refund has been received; however, interest shall no longer accrue after June 2, 2006~~8~~. No
6 refunds shall be made for any prepaid impact fees except as otherwise provided for in this
7 division.
8

9 **SECTION 2. Amending Chapter 23 (Planning), Article III (Impact Fees), Division 2**
10 **(Educational Facilities Impact Fee), Section 23-68(b) (prepayment of impact fees).** Section
11 23-68(b) is hereby amended to read as follows, with any underlined language added and any
12 struck-through language deleted:
13

14 (b) Impact fees under this division may not be prepaid after June 2, 2005. Impact fees are not
15 transferable from one parcel to another. Impact fees that were prepaid on or prior to June 2, 2005
16 under this division shall vest the parcel for the land use for which the fees are paid from any
17 increase in the educational facilities impact fee through the period ending June 2, 2006~~8~~ and
18 further provided that a valid building permit has been issued by the Building Department for said
19 parcel within this period. In the event that the parcel owner does not obtain, or chooses not to
20 obtain, a valid building permit by June 2, 2006~~8~~, then all impact fees previously prepaid against
21 said parcel shall become refundable to the current parcel owner of record, together with interest
22 at the County's average annual rate of return (and calculated from the date the impact fee was
23 paid to the County through the date the County issues a refund check, but no later than June 2,
24 2006~~8~~); however, nothing herein shall prevent the parcel owner from requesting this refund at
25 any time after June 2, 2005. The current parcel owner of record must file a written request with
26 the County Building Department as a prerequisite to obtaining this refund from or on behalf of
27 the Hernando County School Board. Following June 2, 2006~~8~~, all amounts previously prepaid
28 under this division together with afore-described interest (and not otherwise refunded) shall
29 continue to remain as a credit against future impact fees requirements (the prevailing impact fee
30 rate structure at time of building permitting) as to said parcel, or until such time as a request for
31 refund has been received; however, interest shall no longer accrue after June 2, 2006~~8~~. No
32 refunds shall be made for any prepaid impact fees except as otherwise provided for in this
33 division.
34

35 **SECTION 3. Amending Chapter 23 (Planning), Article III (Impact Fees), Division 3**
36 **(Public Capital Facilities Impact Fee), Section 23-90(d) (prepayment of impact fee).** Section
37 23-90(d) is hereby amended to read as follows, with any underlined language added and any
38 struck-through language deleted:
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40 (d) Impact fees under this division may not be prepaid after June 2, 2005. Impact fees are not
41 transferable from one parcel to another. Impact fees that were prepaid on or prior to June 2, 2005
42 under this division shall vest the parcel for the land use for which the fees are paid from any
43 increase in the public capital facilities impact fee through the period ending June 2, 2006~~8~~ and

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1 further provided that a valid building permit has been issued by the Building Department for said
2 parcel within this period. In the event that the parcel owner does not obtain, or chooses not to
3 obtain, a valid building permit by June 2, 2006~~8~~, then all impact fees previously prepaid against
4 said parcel shall become refundable to the current parcel owner of record, together with interest
5 at the County's average annual rate of return (and calculated from the date the impact fee was
6 paid to the County through the date the County issues a refund check, but no later than June 2,
7 2006~~8~~); however, nothing herein shall prevent the parcel owner from requesting this refund at
8 any time after June 2, 2005. The current parcel owner of record must file a written request with
9 the County Building Department as a prerequisite to obtaining this refund. Following June 2,
10 2006~~8~~, all amounts previously prepaid under this division together with afore-described interest
11 (and not otherwise refunded) shall continue to remain as a credit against future impact fees
12 requirements (the prevailing impact fee rate structure at time of building permitting) as to said
13 parcel, or until such time as a request for refund has been received; however, interest shall no
14 longer accrue after June 2, 2006~~8~~. No refunds shall be made for any prepaid impact fees except
15 as otherwise provided for in this division.

16
17 **SECTION 4. Amending Chapter 23 (Planning), Article III (Impact Fees), Division 4 (Parks**
18 **Impact Fee), Section 23-113(d) (prepayment of impact fee).** Section 23-113(d) is hereby
19 amended to read as follows, with any underlined language added and any struck-through
20 language deleted:

21
22 (d) Impact fees under this division may not be prepaid after June 2, 2005. Impact fees are not
23 transferable from one parcel to another. Impact fees that were prepaid on or prior to June 2, 2005
24 under this division shall vest the parcel for the land use for which the fees are paid from any
25 increase in the parks impact fee through the period ending June 2, 2006~~8~~ and further provided
26 that a valid building permit has been issued by the Building Department for said parcel within
27 this period. In the event that the parcel owner does not obtain, or chooses not to obtain, a valid
28 building permit by June 2, 2006~~8~~, then all impact fees previously prepaid against said parcel shall
29 become refundable to the current parcel owner of record, together with interest at the County's
30 average annual rate of return (and calculated from the date the impact fee was paid to the County
31 through the date the County issues a refund check, but no later than June 2, 2006~~8~~); however,
32 nothing herein shall prevent the parcel owner from requesting this refund at any time after June
33 2, 2005. The current parcel owner of record must file a written request with the County Building
34 Department as a prerequisite to obtaining this refund. Following June 2, 2006~~8~~, all amounts
35 previously prepaid under this division together with afore-described interest (and not otherwise
36 refunded) shall continue to remain as a credit against future impact fees requirements (the
37 prevailing impact fee rate structure at time of building permitting) as to said parcel, or until such
38 time as a request for refund has been received; however, interest shall no longer accrue after June
39 2, 2006~~8~~. No refunds shall be made for any prepaid impact fees except as otherwise provided for
40 in this division.

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1 **SECTION 5. Amending Chapter 23 (Planning), Article III (Impact Fees), Division 5**
2 **(Roads Impact Fee), Section 23-137(e) (prepayment of road impact fees).** Section 23-137(e)
3 is hereby amended to read as follows, with any underlined language added and any struck-
4 through language deleted:

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6 (e) Impact fees under this division may not be prepaid after June 2, 2005. Impact fees are not
7 transferable from one parcel to another. Impact fees that were prepaid on or prior to June 2, 2005
8 under this division shall vest the parcel for the land use for which the fees are paid from any
9 increase in the roads impact fee through the period ending June 2, 2006~~8~~ and further provided
10 that a valid building permit has been issued by the Building Department for said parcel within
11 this period. In the event that the parcel owner does not obtain, or chooses not to obtain, a valid
12 building permit by June 2, 2006~~8~~, then all impact fees previously prepaid against said parcel shall
13 become refundable to the current parcel owner of record, together with interest at the County's
14 average annual rate of return (and calculated from the date the impact fee was paid to the County
15 through the date the County issues a refund check, but no later than June 2, 2006~~8~~); however,
16 nothing herein shall prevent the parcel owner from requesting this refund at any time after June
17 2, 2005. The current parcel owner of record must file a written request with the County Building
18 Department as a prerequisite to obtaining this refund. Following June 2, 2006~~8~~, all amounts
19 previously prepaid under this division together with afore-described interest (and not otherwise
20 refunded) shall continue to remain as a credit against future impact fees requirements (the
21 prevailing impact fee rate structure at time of building permitting) as to said parcel, or until such
22 time as a request for refund has been received; however, interest shall no longer accrue after June
23 2, 2006~~8~~. No refunds shall be made for any prepaid impact fees except as otherwise provided for
24 in this division.

25
26 **SECTION 6. Severability.** It is declared to be the intent of the Board of County
27 Commissioners that if any section, subsection, clause, sentence, phrase, or provision of this
28 ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect
29 the validity of the remaining portions of this ordinance.

30
31 **SECTION 7. Full Force and Effect of Remainder.** All sections, subsections, clauses,
32 sentences, phrases, and provisions of Chapter 23, Article III, of the Code not amended herein
33 shall stay the same and remain in full force and effect until amended, repealed or otherwise acted
34 upon by the Board of County Commissioners.

35
36 **SECTION 8. Inclusion in the Code.** It is the intention of the Board of County Commissioners
37 of Hernando County, Florida, and it is hereby provided, that the provisions of this Ordinance
38 shall become and be made a part of the Code of Ordinances of Hernando County, Florida. To
39 this end, any section or subsection of this Ordinance may be renumbered or relettered to
40 accomplish such intention, and the word "ordinance" may be changed to "section," "article," or
41 other appropriate designation.
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1 SECTION 9. Effective date. This ordinance shall take effect immediately upon filing with the
2 office of the Secretary of State of Florida.

3
4 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
5 HERNANDO COUNTY in Regular Session this 20th day of September, 2005.

6
7 BOARD OF COUNTY COMMISSIONERS
8 HERNANDO COUNTY, FLORIDA

9
10
11 Attest: Karen Nicolai
12 KAREN NICOLAI
13 CLERK

11 By: Robert C. Schenck
12 ROBERT C. SCHENCK
13 CHAIRMAN

14
15 Approved as to Form and
16 Legal Sufficiency

17
18 By: Geoffrey T. Kirk 9/20/05
19 Assistant County Attorney
20 Geoffrey T. Kirk