

**ORDINANCE 01-16**

**"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 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; 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 EXEMPTIONS AND CREDITS; PROVIDING FOR THE REVIEW OF THE FEE SCHEDULE; PROVIDING FOR APPEAL FROM ADMINISTRATIVE DECISIONS; PROVIDING FOR PENALTIES FOR VIOLATION OF THIS ORDINANCE; PROVIDING CRIMINAL PENALTIES FOR KNOWINGLY FURNISHING FALSE INFORMATION IN CONNECTION WITH THE CALCULATION OF FEES; PROVIDING FOR INCLUSION IN THE CODE, CODIFICATION AND SCRIVENER'S ERRORS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the Board of County Commissioners of Hernando County wishes to amend the Educational Facilities Impact Fee Ordinance adopted as Hernando County Ordinance 97-15, so as to clarify various provisions thereof, provide new definitions, a revised schedule of fees, and

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

WHEREAS, Chapter 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

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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 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 a 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 is 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.

**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, and 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. The land 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.
- B. "Capital costs of educational facilities" are expenditures for the acquisition of fixed assets or additions to fixed asset and expenditures for site acquisition, construction design, site development, necessary off-site improvements, and equipment.
- C. "County Administrator" means the County Administrator and/or the county or municipal officials he or she may designate to administer the various provisions of this ordinance.
- D. "Independent Fee Calculation Study" means the impact documentation prepared by a feepayer to allow the determination of the impact fee other than by the use of the table in Section Six (A) of this ordinance.
- E. "Building permit" means an official document or official certification which authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving or repair of a building or structure. In the case of a change in use or occupancy of an existing building or structure, the term shall specifically include Certificates of Occupancy and Occupancy Permits, as those terms are defined by the Hernando County Land Development Regulations. The terms "Building Permit" and "Certificate of Occupancy Permit" also mean those municipal permits which are equivalent to these County permits, regardless of the names by which they are called within a municipality. Building permits shall include those permits which allow the installation or location of a mobile home or recreational vehicle on a site or lot.

#### **SECTION FIVE: IMPOSITION OF EDUCATIONAL FACILITIES IMPACT FEES**

- 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, shall be required to pay an educational facilities impact fee in the amount set forth in this

ordinance. No such building permit shall be issued unless and until the educational facilities impact fee hereby imposed has been paid pursuant to Section Seven of this Ordinance. For a building permit for which a complete application is submitted prior to the effective date of this ordinance, the Educational Facilities Impact Fee Ordinance in effect on the date of the complete application governs.

- B. Impact fees may be prepaid for any legally existing parcel. Prepaid impact fees shall run with the land and are not transferable from one parcel to another. Prepaid impact fees shall vest the parcel for the land use for which the fees are paid from any increase in the Educational Facilities Impact Fee. No refunds shall be made for any prepaid impact fees except as otherwise provided for in this Ordinance.

**SECTION SIX: COMPUTATION OF THE AMOUNT OF EDUCATIONAL FACILITIES IMPACT FEES**

- A. At the option of the feepayer, the amount of the fee may be determined by the following fee schedule.

**SCHEDULE OF IMPACT FEES  
EDUCATIONAL FACILITIES**

LAND USE TYPE	
Residential	Amount
Single-Family, Detached	\$2,406
Single-Family, Attached	\$2,013
Multi-Family	\$1,858
Mobile Home, 1 Acre	\$2,406
Mobile Home, Other	\$2,169
Residential - Other	\$2,406

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 Six A above do not accurately reflect the impact of his/her development on the need for educational facilities in Hernando County, the feepayer may present evidence in support of his/her 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. Any such adjustment to the fees in the schedule contained in Section Six A may only be based upon impact or use characteristics that are expected to exist throughout the expected life of the structure and may not be based upon temporary or transitory use characteristics.

#### **SECTION SEVEN: PAYMENT OF FEES**

- A. The person applying for the issuance of a building permit 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. 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 School 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 for capital costs of educational facilities.
- 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 expires, then the feepayer, his/her 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 application of the current owner within one hundred and eighty (180) days of the expiration of the (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**

- A. 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.
  - 4. The replacement of a lawfully permitted building, mobile home, or structure, the building permit for which was issued on or before the effective date of this ordinance or the replacement of a building, mobile home or structure that was constructed subsequent thereto and for which the correct public educational facilities impact fee, which was owed at the time the building permit was applied for, was paid or otherwise provided for, with a new building, mobile home, or structure of the same use and at the same location.
  - 5. A building permit for which the public educational impact thereof has been or will be paid or otherwise provided for pursuant to a written agreement, zoning approval or development order which, by the written terms thereof,

clearly and unequivocally was intended to provide for the full mitigation of such impact by enforcement of the agreement, zoning approval or development order, and not by the application of this ordinance.

6. A building permit which does not result in any additional impact on public educational facilities.
7. The construction of any non-residential building or structure.

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.

#### **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: APPEAL**

Any decision made by the County Administrator or his/her designee in the course of administering this ordinance may be appealed to the Board of County Commissioners by filing a notice of appeal within ten days after the decision. The County Administrator shall schedule the appeal before the Board of County Commissioners within 30 days after receiving the notice of appeal.

#### **SECTION THIRTEEN: 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, Hernando County, or any educational facilities impact 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 County Administrator, his/her designee, or any municipal official who is charged with the administration of this ordinance on any matter relating to the administration of this ordinance shall constitute a violation thereof.

#### **SECTION FOURTEEN: 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 FIFTEEN: CODIFICATION, INCLUSION INTO THE CODE AND SCRIVENER'S ERRORS**



It is the intention of the Board of County Commissioners that the provisions of this ordinance shall become and be made a part of the Hernando County Code; and that sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions; and regardless of whether such inclusion in the Code is accomplished, sections of this ordinance may be renumbered or relettered and typographical errors which do not affect the intent may be authorized by the County Administrator, or his/her designee, without need of public hearing, by filing a corrected or recodified copy of same with the Clerk of Circuit Court.

**ORDINANCE 97-15 IS HEREBY AMENDED AND SUPERSEDED BY THE AMENDED VERSION SET FORTH ABOVE EFFECTIVE JUNE 1, 2002.**

**ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS IN REGULAR SESSION THIS 23RD DAY OF OCTOBER, 2001.**

**BOARD OF COUNTY COMMISSIONERS  
HERNANDO COUNTY, FLORIDA**

BY   
**CHRISTOPHER A. KINGSLEY, CHAIRMAN**

ATTEST   
**KAREN NICOLAI, CLERK**

(SEAL)

