

ORDINANCE NO.: 2011- 8

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, ~~2010~~ 2011 TO JUNE 2, ~~2011~~ 2012; PROVIDING FOR SEVERABILITY; PROVIDING FOR FULL FORCE AND EFFECT OF REMAINDER; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

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 imposed a three year (*i.e.* June 2, 2008) sunset provision on impact fees that were previously prepaid; and,

WHEREAS, relating to impact fees that were prepaid on or before June 2, 2005, the Board of County Commissioners desires to extend the sunset provision from June 2, ~~2010~~ 2011 to June 2, ~~2011~~ 2012, subject to the property owner obtaining a valid building permit on said prepaid parcel on or before June 2, ~~2011~~ 2012.

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, ~~2011~~ 2012 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, ~~2011~~ 2012, 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, ~~2011~~ 2012); however, nothing herein shall prevent the parcel owner from requesting this refund at any time after June 2, 2005. The current

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

1 parcel owner of record must file a written request with the County Building Department as a  
2 prerequisite to obtaining this refund. Following June 2, ~~2011~~ 2012, all amounts previously  
3 prepaid under this division together with afore-described interest (and not otherwise refunded)  
4 shall continue to remain as a credit against future impact fees requirements (the prevailing impact  
5 fee rate structure at time of building permitting) as to said parcel, or until such time as a request  
6 for refund has been received; however, interest shall no longer accrue after June 2, ~~2011~~ 2012.  
7 No refunds shall be made for any prepaid impact fees except as otherwise provided for in this  
8 division.  
9

10 **SECTION 2. Amending Chapter 23 (Planning), Article III (Impact Fees), Division 2**  
11 **(Educational Facilities Impact Fee), Section 23-68(b) (prepayment of impact fees).** Section  
12 23-68(b) is hereby amended to read as follows, with any underlined language added and any  
13 struck-through language deleted:  
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15 (b) Impact fees under this division may not be prepaid after June 2, 2005. Impact fees are not  
16 transferable from one parcel to another. Impact fees that were prepaid on or prior to June 2, 2005  
17 under this division shall vest the parcel for the land use for which the fees are paid from any  
18 increase in the educational facilities impact fee through the period ending June 2, ~~2011~~ 2012 and  
19 further provided that a valid building permit has been issued by the Building Department for said  
20 parcel within this period. In the event that the parcel owner does not obtain, or chooses not to  
21 obtain, a valid building permit by June 2, ~~2011~~ 2012, then all impact fees previously prepaid  
22 against said parcel shall become refundable to the current parcel owner of record, together with  
23 interest at the County's average annual rate of return (and calculated from the date the impact fee  
24 was paid to the County through the date the County issues a refund check, but no later than June  
25 2, ~~2011~~ 2012); however, nothing herein shall prevent the parcel owner from requesting this  
26 refund at any time after June 2, 2005. The current parcel owner of record must file a written  
27 request with the County Building Department as a prerequisite to obtaining this refund from or  
28 on behalf of the Hernando County School Board. Following June 2, ~~2011~~ 2012, all amounts  
29 previously prepaid under this division together with afore-described interest (and not otherwise  
30 refunded) shall continue to remain as a credit against future impact fees requirements (the  
31 prevailing impact fee rate structure at time of building permitting) as to said parcel, or until such  
32 time as a request for refund has been received; however, interest shall no longer accrue after June  
33 2, ~~2011~~ 2012. No refunds shall be made for any prepaid impact fees except as otherwise  
34 provided for in this division.  
35

36 **SECTION 3. Amending Chapter 23 (Planning), Article III (Impact Fees), Division 3**  
37 **(Public Capital Facilities Impact Fee), Section 23-90(d) (prepayment of impact fee).** Section  
38 23-90(d) is hereby amended to read as follows, with any underlined language added and any  
39 struck-through language deleted:  
40

41 (d) Impact fees under this division may not be prepaid after June 2, 2005. Impact fees are not  
42 transferable from one parcel to another. Impact fees that were prepaid on or prior to June 2, 2005  
43 under this division shall vest the parcel for the land use for which the fees are paid from any

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1 increase in the public capital facilities impact fee through the period ending June 2, ~~2011~~ 2012  
2 and further provided that a valid building permit has been issued by the Building Department for  
3 said parcel within this period. In the event that the parcel owner does not obtain, or chooses not  
4 to obtain, a valid building permit by June 2, ~~2011~~ 2012, then all impact fees previously prepaid  
5 against said parcel shall become refundable to the current parcel owner of record, together with  
6 interest at the County's average annual rate of return (and calculated from the date the impact fee  
7 was paid to the County through the date the County issues a refund check, but no later than June  
8 2, ~~2011~~ 2012); however, nothing herein shall prevent the parcel owner from requesting this  
9 refund at any time after June 2, 2005. The current parcel owner of record must file a written  
10 request with the County Building Department as a prerequisite to obtaining this refund.  
11 Following June 2, ~~2011~~ 2012, all amounts previously prepaid under this division together with  
12 afore-described interest (and not otherwise refunded) shall continue to remain as a credit against  
13 future impact fees requirements (the prevailing impact fee rate structure at time of building  
14 permitting) as to said parcel, or until such time as a request for refund has been received;  
15 however, interest shall no longer accrue after June 2, ~~2011~~ 2012. No refunds shall be made for  
16 any prepaid impact fees except as otherwise provided for in this division.

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

22  
23 (d) Impact fees under this division may not be prepaid after June 2, 2005. Impact fees are not  
24 transferable from one parcel to another. Impact fees that were prepaid on or prior to June 2, 2005  
25 under this division shall vest the parcel for the land use for which the fees are paid from any  
26 increase in the parks impact fee through the period ending June 2, ~~2011~~ 2012 and further  
27 provided that a valid building permit has been issued by the Building Department for said parcel  
28 within this period. In the event that the parcel owner does not obtain, or chooses not to obtain, a  
29 valid building permit by June 2, ~~2011~~ 2012, then all impact fees previously prepaid against said  
30 parcel shall become refundable to the current parcel owner of record, together with interest at the  
31 County's average annual rate of return (and calculated from the date the impact fee was paid to  
32 the County through the date the County issues a refund check, but no later than June 2, ~~2011~~  
33 2012); however, nothing herein shall prevent the parcel owner from requesting this refund at any  
34 time after June 2, 2005. The current parcel owner of record must file a written request with the  
35 County Building Department as a prerequisite to obtaining this refund. Following June 2, ~~2011~~  
36 2012, all amounts previously prepaid under this division together with afore-described interest  
37 (and not otherwise refunded) shall continue to remain as a credit against future impact fees  
38 requirements (the prevailing impact fee rate structure at time of building permitting) as to said  
39 parcel, or until such time as a request for refund has been received; however, interest shall no  
40 longer accrue after June 2, ~~2011~~ 2012. No refunds shall be made for any prepaid impact fees  
41 except as otherwise provided for 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:  
5

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, ~~2011~~ 2012 and further  
10 provided that a valid building permit has been issued by the Building Department for said parcel  
11 within this period. In the event that the parcel owner does not obtain, or chooses not to obtain, a  
12 valid building permit by June 2, ~~2011~~ 2012, then all impact fees previously prepaid against said  
13 parcel shall become refundable to the current parcel owner of record, together with interest at the  
14 County's average annual rate of return (and calculated from the date the impact fee was paid to  
15 the County through the date the County issues a refund check, but no later than June 2, ~~2011~~  
16 2012); however, nothing herein shall prevent the parcel owner from requesting this refund at any  
17 time after June 2, 2005. The current parcel owner of record must file a written request with the  
18 County Building Department as a prerequisite to obtaining this refund. Following June 2, ~~2011~~  
19 2012, all amounts previously prepaid under this division together with afore-described interest  
20 (and not otherwise refunded) shall continue to remain as a credit against future impact fees  
21 requirements (the prevailing impact fee rate structure at time of building permitting) as to said  
22 parcel, or until such time as a request for refund has been received; however, interest shall no  
23 longer accrue after June 2, ~~2011~~ 2012. No refunds shall be made for any prepaid impact fees  
24 except as otherwise provided for 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.  
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4 **BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF**  
5 **HERNANDO COUNTY** in Regular Session this 24th day of May, 2011  
6

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

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10  
11 Attest:

12 Karen Nicolai  
13 KAREN NICOLAI  
14 CLERK

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18  
19 By:

James E. Adkins  
20 JAMES E. ADKINS  
21 CHAIRMAN

22 **Approved as to Form and**  
23 **Legal Sufficiency**

24 By:

Geoffrey T. Kirk  
25 Geoffrey T. Kirk  
Assistant County Attorney