

ORDINANCE NO.: 2013 - 9

AN ORDINANCE AMENDING CHAPTER 23 (PLANNING), ARTICLE III, DIVISIONS 1-6, OF THE HERNANDO COUNTY CODE OF ORDINANCES RELATING TO IMPACT FEES; AMENDING SECTION 23-51 (FIRE/EMERGENCY), SECTION 23-72 (EDUCATIONAL FACILITIES), SECTION 23-95 (PUBLIC CAPITAL FACILITIES), SECTION 23-119 (PARKS), SECTION 23-143 (ROADS), AND SECTION 23-156 (I75/SR50 PDD SURCHARGE), TO PROVIDE FOR AN INCREASE FROM SIX YEARS TO TEN YEARS IN THE TIME PROVIDED FOR A REFUND OF UNENCUMBERED OR UNEXPENDED IMPACT FEES; PROVIDING FOR SAVINGS CLAUSE; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

2013 MAR 21 PM 1:21

FILED

WHEREAS, the Board of County Commissioners (County) has adopted the Hernando County Comprehensive Plan within which are included goals, objectives, and policies, (including specifically Goal 1.04 and Objective 9.01C), related to the County requiring new development to pay a fair, equitable and proportionate share of the costs required to provide adequate public facilities to that new development; and

WHEREAS, the Hernando County Comprehensive Plan Policy 9.01C(2) specifically identifies the imposition of impact fees as a preferred method of ensuring that future development bears a proportionate share of the cost of capital facilities necessary to accommodate future development; and

WHEREAS, the Hernando County Comprehensive Plan Policy 9.01C(3) compels the County to regularly review its adopted impact fees to ensure that future development bears its proportionate share of capital facilities costs; and

WHEREAS, Chapter 163, Part II, Florida Statutes, requires the implementation of these goals, objectives, and policies through the adoption of consistent land development regulations; and

WHEREAS, owing to the extension of development order timetables due to the economic downturn, the County desires to update its impact fee ordinances to provide for additional time to encumber and expend impact fees; and

WHEREAS, this proposed substantive amendment to the Hernando County Land Development Regulations, Chapter 23, Article III, (Impact Fees), has received public hearing(s) before the Planning and Zoning Commission, Local Planning Agency and the Board of County Commissioners as required by state and local law; and

WHEREAS, the Board of County Commissioners, for itself and acting as the Local Planning Agency, finds and determines that the proposed amendment is consistent with the goals, objectives and policies of the Comprehensive Plan.

1
2 **NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**
3 **COMMISSIONERS OF HERNANDO COUNTY, FLORIDA:**
4

5 **SECTION I.** Hernando County Code of Ordinances, Chapter 23 (*Planning*), Article III (*Impact*
6 *Fees*), Division 1 (*Fire Protection and Emergency Medical Services Capital Facilities Impact Fee*),
7 Section 23-51 (*Refund of Fees Paid*), subparagraph (b), is hereby amended to reflect an increase in
8 the time provided before a refund of unexpended or unencumbered impact fees may be requested, as
9 more precisely delineated with strike-through and underlined text below:

10
11 **Section 23-51. - Refund of fees paid.**
12

13 ...
14

15 (b) Any funds not expended or encumbered by the end of the calendar quarter immediately
16 following ~~six (6)~~ ten (10) years from the date the fire protection and emergency medical
17 services capital facilities impact fee was recorded as revenue by the county shall, upon
18 application of the current parcel owner of record within one hundred eighty (180) days of
19 the expiration of the ~~six-year~~ ten-year period, be returned to the current parcel owner of
20 record with interest at the county's average annual rate of return.
21

22 **SECTION II.** Hernando County Code of Ordinances, Chapter 23 (*Planning*), Article III (*Impact*
23 *Fees*), Division 2 (*Educational Facilities Impact Fee*), Section 23-72 (*Refund of Fees Paid*),
24 subparagraph (b), is hereby amended to reflect an increase in the time provided before a refund of
25 unexpended or unencumbered impact fees may be requested, as more precisely delineated with
26 strike-through and underlined text below:
27

28 **Section 23-72. - Refund of fees paid.**
29

30 ...
31

32 (b) Any funds not expended or encumbered by the end of the calendar quarter immediately
33 following ~~six (6)~~ ten (10) years from the date the educational impact fee ~~payment~~ was
34 recorded as revenue by the County shall, upon application of the current parcel owner of
35 record within one hundred eighty (180) days of the expiration of the ~~six-year~~ ten-year
36 period, be refunded to the current parcel owner of record by the county school board with
37 interest at the county's average annual rate of return.
38

39 **SECTION III.** Hernando County Code of Ordinances, Chapter 23 (*Planning*), Article III (*Impact*
40 *Fees*), Division 3 (*Public Capital Facilities Impact Fee*), Section 23-95 (*Refund of Fees Paid*),
41 subparagraph (b), is hereby amended to reflect an increase in the time provided before a refund of
42 unexpended or unencumbered impact fees may be requested, as more precisely delineated with
43 strike-through and underlined text below:
44

45 **Section 23-95. - Refund of fees paid.**

1
2 ...
3
4 (b) Any funds not expended or encumbered by the end of the calendar quarter immediately
5 following ~~six (6)~~ ten (10) years from the date the public capital facilities impact fee was
6 recorded as revenue by the County shall, upon application of the current parcel owner of
7 record within one hundred eighty (180) days of the expiration of the ~~six-year~~ ten-year
8 period, be refunded to the current parcel owner of record with interest at the county's
9 average annual rate of return.

10
11 **SECTION IV.** Hernando County Code of Ordinances, Chapter 23 (*Planning*), Article III (*Impact*
12 *Fees*), Division 4 (*Parks Impact Fee*), Section 23-119 (*Refund of Fees Paid*), subparagraph (b), is
13 hereby amended to reflect an increase in the time provided before a refund of unexpended or
14 unencumbered impact fees may be requested, as more precisely delineated with strike-through and
15 underlined text below:

16
17 **Section 23-119. - Refund of fees paid.**

18 ...
19
20
21 (b) Any funds not expended or encumbered by the end of the calendar quarter immediately
22 following ~~six (6)~~ ten (10) years from the date the parks impact fee was recorded as
23 revenue by the County shall, upon application of the current parcel owner of record,
24 within one hundred eighty (180) days of the expiration of the ~~six-year~~ ten-year period, be
25 returned to the current parcel owner of record with interest at the county's average annual
26 rate of return.

27
28 **SECTION V.** Hernando County Code of Ordinances, Chapter 23 (*Planning*), Article III (*Impact*
29 *Fees*), Division 5 (*Roads Impact Fee*), Section 23-143 (*Refund of Fees Paid*), subparagraph (b), is
30 hereby amended to reflect an increase in the time provided before a refund of unexpended or
31 unencumbered impact fees may be requested, as more precisely delineated with strike-through and
32 underlined text below:

33
34 **Section 23-143. - Refund of fees paid.**

35 ...
36
37
38 (b) Any funds not expended or encumbered by the end of the calendar quarter immediately
39 following ~~six (6)~~ ten (10) years from the date the roads impact fee was recorded as
40 revenue by the county shall, upon application of the current parcel owner of record
41 within one hundred eighty (180) days of the expiration of the ~~six-year~~ ten-year period, be
42 returned to the current parcel owner of record with interest at the county's average annual
43 rate of return.

1 **SECTION VI.** Hernando County Code of Ordinances, Chapter 23 (*Planning*), Article III (*Impact*
2 *Fees*), Division 6 (*I75/SR50 PDD Surcharge Fee*), Section 23-156 (*Refund of Fees Paid*),
3 subparagraph (c), is hereby amended to reflect an increase in the time provided before a refund of
4 unexpended or unencumbered impact fees may be requested, as more precisely delineated with
5 strike-through and underlined text below:

6 **Section 23-156. - Refund of fees paid.**

7
8 ...

9
10 (c) Any impact fee surcharge funds not expended or encumbered by the end of the calendar
11 quarter immediately following ~~six (6)~~ ten (10) years from the date the respective impact
12 fee surcharge was recorded as revenue by the county shall, upon application of the
13 current parcel owner of record, within one hundred eighty (180) days of the expiration of
14 the ~~six-year~~ ten-year period, be returned to the current parcel owner of record with
15 interest at the county's average annual rate of return to the extent not contrary to the
16 terms of any development agreement or development order.

17
18 **SECTION VI. SAVINGS CLAUSE.** All applications for refunds pursuant to Sections 23-51, 23-
19 72, 23-95, 23-119, 23-143 and 23-156, received and determined to be complete prior to the effective
20 date of this Ordinance, shall be reviewed and processed in accordance with the law in effect at the
21 time the application was deemed complete and shall not be impacted by this Amendment, provided
22 such application is processed to completion in a timely manner by the applicant. Similarly, any DRI
23 Development Order, or similar land use development order where the time for refund of
24 unexpended and unencumbered impact fees was specifically addressed in the terms and conditions
25 of the development order, shall not be affected by this amendment, to the extent specifically
26 provided in such development order.

27
28 **SECTION VII. APPLICABILITY.** This Ordinance shall be applicable throughout the
29 unincorporated areas of Hernando County and throughout the incorporated areas of Hernando
30 County, to the extent permitted by Article VIII, Section 1(f) of the Constitution of the State of
31 Florida.

32
33 **SECTION VIII. SEVERABILITY.** It is declared to be the intent of the Board of County
34 Commissioners that if any section, subsection, clause, sentence, phrase, or provision of this
35 ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the
36 validity of the remaining portions of this ordinance.

37
38 **SECTION IX. CONFLICTING PROVISIONS.** Special acts of the Florida Legislature applicable
39 only to unincorporated areas of Hernando County, Hernando County ordinances, County
40 resolutions, or parts thereof, in conflict with this ordinance are hereby superseded by this ordinance
41 to the extent of such conflict except for ordinances concerning either adoption or amendment of the
42 Comprehensive Plan, pursuant to Chapter 163, part II, Florida Statutes.

SECTION X. REMAINDER. All sections, subsections, clauses, sentences, phrases, and provisions of Chapter 23, Article III, Division 1-6, of the Hernando County Code of Ordinances not amended herein shall stay the same and remain in full force and effect until amended, repealed or otherwise acted upon by the Board of County Commissioners.

SECTION XI. FILING WITH THE DEPARTMENT OF STATE. The clerk shall be and is hereby directed forthwith to send a certified copy of this ordinance to the Bureau of Administrative Code, Department of State, R.A. Gray Bldg., Room 101, 500 S. Bronough Street, Tallahassee, FL 32399-0250.

SECTION XII. INCLUSION IN 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, any section or subsection of this Ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section", article," or other appropriate designation. Section VI through Section XIII need not be codified.

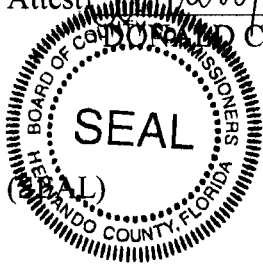
SECTION XIII. EFFECTIVE DATE. This ordinance shall take effect immediately upon filing with the Department of State.

DULY PASSED AND ADOPTED IN REGULAR SESSION THIS 12th
DAY OF MARCH, 2013

BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA

Attest: [Signature], D.C.
DAVID C. BARBEE, JR. CLERK

By: [Signature]
DAVID D. RUSSELL, JR., CHAIRMAN



Approved as to Form and
Legal Sufficiency
By: [Signature]



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

March 22, 2013

Honorable Karen Nicolai
Clerk of the Circuit Court
Hernando County
20 North Main Street
Brooksville, Florida 34601-2800

Attention: Ms. Ashley Hofecker, Deputy Clerk

Dear Ms. Nicolai:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated March 13, 2013 and certified copies of Hernando County Ordinance Nos. 2013-8 and 2013-9, which were filed in this office on March 21, 2013.

As requested, the date stamped originals are being return for your records.

Sincerely,

A handwritten signature in cursive script that reads "Liz Cloud".

Liz Cloud
Program Administrator

LC/lb

Enclosure