

FILED

ORDINANCE 93-5
"PARKS IMPACT FEE ORDINANCE"

APR 2 1 57 PM '93

AN ORDINANCE RELATING TO THE REGULATION OF THE USE AND DEVELOPMENT OF LAND IN THE INCORPORATED AND UNINCORPORATED AREAS OF HERNANDO COUNTY, FLORIDA; IMPOSING AN IMPACT FEE ON LAND DEVELOPMENT IN HERNANDO COUNTY FOR PROVIDING NEW PARKS 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 THE PAYMENT AND TIME OF PAYMENT OF A PARKS IMPACT FEE; PROVIDING FOR REVIEW OF PARKS IMPACT FEES AND THE FEE SCHEDULES; PROVIDING FOR THE ESTABLISHMENT OF PARKS IMPACT FEE DISTRICTS; PROVIDING FOR THE PLACEMENT OF REVENUE COLLECTED FROM PARKS IMPACT FEES INTO PARKS IMPACT FEE TRUST FUNDS ESTABLISHED FOR THAT PURPOSE; PROVIDING FOR EXEMPTIONS AND CREDITS; PROVIDING FOR REFUND OF UNEXPENDED FUNDS; PROVIDING FOR USE OF FUNDS DERIVED FROM PARKS IMPACT FEES; PROVIDING THAT PARKS IMPACT FEES MAY BE PLEDGED TOWARD PAYMENT OF BOND ISSUES AND SIMILAR DEBT INSTRUMENTS; PROVIDING FOR AN 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 OR CREDITS; 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 Parks Impact Fee Ordinance adopted as Hernando County Ordinances 86-28 and 91-30, so as to clarify various provisions thereof, provide new definitions, a revised schedule of fees, a revised method for calculating and administering credits, providing for an appeal from administrative decisions and to make it a criminal offense to knowingly furnish false information in connection with the calculation of fees or credits; and

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

WHEREAS, the Hernando County Comprehensive Plan establishes that land development shall bear a proportionate share of the cost of the provision of the new or expanded park capital facilities required by such development; and

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

WHEREAS, the Florida Legislature through the enactment of 163.3202(3), Florida Statutes,

has sought to encourage local governments to enact impact fees as land development regulations; and

WHEREAS, the Board of County Commissioners of Hernando County has determined that Hernando County must expand its parks system in order to maintain current standards if new development is to be accommodated without decreasing current standards;

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

SECTION ONE: SHORT TITLE, AUTHORITY AND APPLICABILITY

- A. This ordinance shall be known and may be cited as the "Hernando County Parks Impact Fee Ordinance."
- B. The Board of County Commissioners of Hernando County has the authority to adopt this ordinance pursuant to Article VIII, Section 1(f) of the Constitution of the State of Florida, and Sections 163.3201 and 163.3202(3) of the Florida Statutes.
- C. This ordinance shall apply in 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 assist in the implementation of 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 parks and park improvements in Hernando County.

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) 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 applying for the issuance of a building permit.
- B. A "capital improvement" includes parks planning, land acquisition, site improvements, buildings, and equipment, but excludes maintenance and operation.
- C. "Capital equipment" is equipment with an expected useful life of three (3) years or more.
- D. "County Administrator" means the County Administrator or the county or municipal official he or she may designate to administer the various provisions of this ordinance.
- E. "Private recreational facility" is any recreational facility which is not owned by or dedicated to any governmental entity.
- F. "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.
- G. "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 residential building or structure or a hotel/motel unit. 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 residential mobile home or recreational vehicle on a site or lot.

SECTION FIVE: IMPOSITION OF PARK IMPACT FEES

- A. Any person who, after the effective date of this Ordinance, seeks to develop land within Hernando County, Florida, by applying for a building permit for a residential building or residential mobile home installation, is hereby required to pay a parks impact fee in the manner and amount set forth in this ordinance. The impact fees established by this ordinance shall not be effective within the boundaries of any municipality which issues building permits until such municipality has executed an interlocal agreement with the County to collect such fees.
- B. No new residential building permit for any activity requiring payment of an impact fee pursuant to Section Seven of this ordinance shall be issued unless and until the parks impact fee hereby required has been paid.
- C. No extension of a residential building permit issued prior to the effective date of this Ordinance for any activity requiring payment of an impact fee pursuant to Section Seven of this ordinance shall be granted unless and until the parks impact fee hereby required has been paid.

SECTION SIX: COMPUTATION OF THE AMOUNT OF PARK IMPACT FEES

- A. At the option of the feepayer, the amount of the parks impact 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 processing of independent fee calculation studies.

FEE SCHEDULE

<u>LAND USE TYPE (UNIT)</u>	<u>FEE PER UNIT</u>
SINGLE FAMILY, DETACHED	\$69
SINGLE FAMILY, ATTACHED	\$59
MULTI-FAMILY	\$53
MOBILE HOME 1 ACRE LOT	\$69
MOBILE HOME - OTHER	\$62
HOTEL/MOTEL - ROOM	\$24
OTHER RESIDENTIAL	\$69

- (1) If a residential building permit is requested for mixed uses, then the fee shall be determined through using the above schedule by apportioning the space committed to uses specified on the schedule.
 - (2) If the type of development activity that a residential 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 schedules. The County Administrator shall be guided in the selection of a comparable type by the Hernando County Comprehensive Plan, supporting documents of the Hernando County Comprehensive Plan and the Hernando County Zoning Ordinance. If the County Administrator determines that there is no comparable type of land use on the above fee schedule then the County Administrator shall determine the appropriately discounted fee by considering demographic or other documentation which is available from State, local and regional authorities.
 - (3) In the case of change of use, redevelopment, or expansion or modification of an existing use which requires the issuance of a building permit, the impact fee shall be based upon the net positive increase in the impact fee for the new use as compared to the previous use. The County Administrator shall be guided in this determination by the sources and agencies listed above.
- B. If a feepayer opts not to have the impact fee determined according to paragraph (A) of this section, then the feepayer shall prepare and submit to the County Administrator an independent fee calculation study for the land development activity for which a building permit is sought. The independent fee calculation study shall follow the prescribed methodologies and formats for the study established by the Guidelines and Procedures Manual adopted by motion of the Board of County Commissioners of Hernando County. The documentation submitted shall show the basis upon which the independent fee calculation was made. The County Administrator shall consider the documentation submitted by the feepayer but is not required to accept such documentation as he/she shall reasonably deem to be inaccurate or not reliable and may, in the alternative, require the feepayer to submit additional or different documentation for consideration. If an acceptable independent fee calculation study is not presented, the feepayer shall pay parks impact fees based upon the schedule shown in paragraph (A) of this section. If an acceptable independent fee calculation

study is presented, the County Administrator may adjust the fee to that appropriate to the particular development. The adjustment may include a credit against the fee otherwise payable up to 50% for private recreational facilities constructed or deed restricted or otherwise set aside for recreational purposes by the feepayer which serve the same purposes and functions as set forth for public parks in the Hernando County Comprehensive Plan. Determinations made by the County Administrator pursuant to this paragraph may be appealed to the Board of County Commissioners by filing a written request with the County Administrator within ten (10) days of the County Administrator's determination.

SECTION SEVEN: PAYMENT OF FEES

- A. The feepayer shall pay the parks impact fee required by this ordinance to the County Administrator prior to the issuance of a residential building permit.
- B. All funds collected shall be properly identified by parks impact fee district and promptly transferred for deposit in the appropriate Parks Impact Fee Trust Fund to be held in separate accounts as determined in Section Ten of this ordinance and used solely for the purposes specified in this ordinance.

SECTION EIGHT: PARK IMPACT FEE DISTRICTS

There are hereby established four (4) parks impact fee districts as shown in Appendix I attached hereto and incorporated herein by reference. No district shall include any area within a municipality that issues building permits and that has not entered into an interlocal agreement with the county to collect parks impact fees or that has by ordinance repealed the effect of this ordinance within its boundaries.

SECTION NINE: PARK IMPACT FEE TRUST FUNDS ESTABLISHED

- A. There are hereby established four (4) separate Parks Impact Fee Trust Funds, one for each parks impact fee district established by Section Eight of this Ordinance.
- B. Funds withdrawn from these accounts must be used in accordance with the provisions of Section Ten of this ordinance.

SECTION TEN: USE OF FUNDS

- A. Funds collected from parks impact fees shall be used solely for the purpose of acquiring and/or making capital improvements to parks under the jurisdiction of Hernando County, a municipality within Hernando County which has not opted out from the provisions of this ordinance, or the State of Florida, and shall not be used for maintenance or operations.
- B. Funds shall be used exclusively for acquisitions, expansions, or capital improvements within the parks impact fee district as identified in Appendix I, hereof, from which the funds were collected or for projects in other parks impact fee districts which are of benefit to the parks impact district from which the funds were collected. Funds shall be expended in the order in which they are collected.
- C. In the event that bonds or similar debt instruments are issued for advanced provision of capital facilities for which parks impact fees may be expended, impact fees may be

used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are of the type described in paragraph A above and are located within the appropriate impact fee districts created by Section Eight of this ordinance or as provided in paragraph B of this section.

- D. At least once each fiscal period the County Administrator shall present to the Board of County Commissioners a proposed capital improvement program for parks, assigning funds, including any accrued interest, from the several Parks Impact Fee Trust Funds to specific park improvement projects and related expenses. Monies, including any accrued interest, not assigned in any fiscal period shall be retained in the same Parks Impact Fee Trust Funds until the next fiscal period except as provided by the refund provisions of this ordinance.
- E. Funds may be used to provide refunds as described in Section Eleven.
- F. The collecting governmental entity shall be entitled to retain not more than three per cent (3%) of the funds collected as compensation for the expense of collecting the fee and administering this ordinance.

SECTION ELEVEN: REFUND OF FEES PAID

- A. If a residential building permit or permit for residential mobile home installation expires without commencement of construction, then the feepayer shall be entitled to a refund, without interest, of the impact fee paid as a condition for its issuance except that the County shall retain three percent (3%) of the fee to offset a portion of the costs of collection and refund. The feepayer must submit an application for such a refund to the County Administrator within 30 days of the expiration of the permit.
- B. Any funds not expended or encumbered by the end of the calendar quarter immediately following six (6) years from the date the parks impact fee was paid shall, upon application of the then current landowner, be returned to such landowner with interest at the rate of six percent (6%) per annum, provided that the landowner submits an application for a refund to the Clerk of Courts of Hernando County within 180 days of the expiration of the six year period.

SECTION TWELVE: EXEMPTIONS AND CREDITS

- A. The following shall be exempted from payment of the impact fee:
 - (1) Alterations or expansion of an existing building where no additional residential units are created and where the use is not changed.
 - (2) The construction of accessory buildings or structures.
 - (3) The replacement of a destroyed or partially destroyed building or structure with a new building or structure of the same size 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 parks 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 parks 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 park or recreational facilities.
- (7) The construction of any non-residential building or structure.

Any claim of exemption must be made no later than the time of application for a building permit or permit for mobile home installation. Any claim not so made shall be deemed waived.

B. Credits:

- (1) Park land and/or park capital improvements may be offered by the feepayer as total or partial payment of the required impact fee. The offer must specifically request or provide for a parks impact fee credit. If the County Administrator accepts such an offer, whether the acceptance is before or after the effective date of this ordinance, the credit shall be determined and provided in the following manner:
 - a. Credit for the dedication of land shall be valued at (i) 115% of the most recent assessed value by the Hernando County Property Appraiser, or (ii) by such other appropriate method as the Board of County Commissioners may have accepted prior to the effective date of this ordinance for particular park improvements, or (iii) by fair market value established by private appraisers acceptable to the County. Credit for the dedication of park land shall be provided when the property has been conveyed at no charge to, and accepted by, the County in a manner satisfactory to the Board of County Commissioners.
 - b. Applicants for credit for construction of park improvements shall submit acceptable engineering drawings and specifications, and construction cost estimates to the County Administrator. The County Administrator shall determine credit for construction based upon either these cost estimates or upon alternative engineering criteria and construction cost estimates if the County Administrator determines that such estimates submitted by the applicant are either unreliable or inaccurate. The County Administrator shall provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter or certificate indicating his agreement to the terms of the letter or certificate and return such signed document to the County Administrator before credit will be given. The failure of the applicant to

sign, date, and return such document within 60 days shall nullify the credit.

c. Except as provided in subparagraph (d), Credit against impact fees otherwise due will not be provided until:

(i) the construction is completed and accepted by the County, a municipality within the County which has not opted out from the effect of this ordinance, or the State, whichever is applicable;

(ii) a suitable maintenance and warranty bond is received and approved by the Clerk of Courts of Hernando County, when applicable.

d. Credit may be provided before completion of specified park improvements if adequate assurances are given by the applicant that the standards set out in Subparagraph (c) will be met and if the feepayer posts security as provided below for the costs of such construction. Security in the form of a performance bond, irrevocable letter of credit or escrow agreement shall be posted with and approved by the Clerk of Courts of Hernando County in an amount determined by the County Administrator. If the park construction project will not be constructed within one (1) year of the acceptance of the offer by the County Administrator, the amount Of the security shall be increased by ten per cent (10%) compounded, for each year of the life of the security. The security shall be reviewed and approved by the Clerk of the Board of County Commissioners prior to acceptance of the security by the Clerk. If the park construction project is not to be completed within 5 years of the date of the feepayer's offer, the Board of County Commissioners must approve the park construction project and its scheduled completion date prior to the acceptance of the offer by the County Administrator.

(2) Any claim for credit must be made no later than the time of application for a building permit or permit for mobile home installation. Any claim not so made shall be deemed waived.

(3) Credits shall not be transferable from one project or development to another without the approval of the Board of County Commissioners and may only be transferred to a development within a different impact fee district upon a finding by the Board of County Commissioners that the dedication for which the credit was given benefits such different impact fee district.

(4) In the event that a municipality within Hernando County shall pass an ordinance or law that prevents the application of this ordinance within that municipality, there shall be no credit given for improvements or construction ordered by that municipality against fees due hereunder because of improvements constructed outside of the boundaries of the municipality.

(5) Determinations made by the County Administrator pursuant to this paragraph may be appealed to the Board of County Commissioners by filing a written

request with the County Administrator with ten (10) days of the County Administrator's determination.

SECTION THIRTEEN: APPEAL

Any decision made by the County Administrator or his 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 FOURTEEN: REVIEW

The fee schedule contained in Section Six (A) shall be reviewed by the Board of County Commissioners at least once each fiscal biennium.

SECTION FIFTEEN: 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 parks impact fee-payer, 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 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 SIXTEEN: 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.

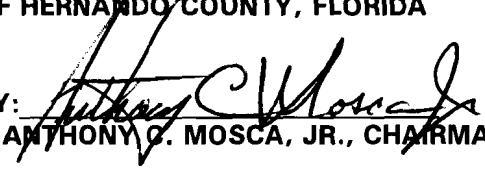
SECTION SEVENTEEN: CODIFICATION, INCLUSION IN THE CODE AND SCRIVENER'S ERRORS

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 designee, without need of public hearing, by filing a corrected or recodified copy of same with the Clerk of Circuit Court.

ORDINANCES 86-28 AND 91-30 ARE HEREBY AMENDED AND SUPERSEDED BY THE AMENDED VERSION SET FORTH AND THE EFFECTIVE DATE AS PROVIDED BY LAW.

ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS IN REGULAR SESSION THIS 25TH DAY OF MARCH, 1993.

BOARD OF COUNTY COMMISSIONERS
OF HERNANDO COUNTY, FLORIDA

BY: 
ANTHONY C. MOSCA, JR., CHAIRMAN

ATTEST:

BY: 
KAREN NICOLAI, CLERK

