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ORDINANCE 93-11

"Fire Protection and Emergency Medical Services
Capital Facilities Impact Fees Ordinance"

AN ORDINANCE RELATING TO THE REGULATION OF THE USE AND DEVELOPMENT OF LAND IN HERNANDO COUNTY, FLORIDA; PROVIDING FOR THE IMPOSITION OF IMPACT FEES ON LAND DEVELOPMENT IN HERNANDO COUNTY FOR FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES CAPITAL FACILITIES NECESSITATED BY SUCH NEW DEVELOPMENT; STATING THE AUTHORITY FOR ADOPTION OF THE ORDINANCE; PROVIDING FOR A SHORT TITLE; PROVIDING DEFINITIONS; PROVIDING FINDINGS AND DECLARATIONS OF THE BOARD OF COUNTY COMMISSIONERS; PROVIDING FOR THE IMPLEMENTATION OF THE HERNANDO COUNTY COMPREHENSIVE PLAN; PROVIDING FOR THE PAYMENT OF FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES CAPITAL FACILITIES IMPACT FEES AS THE PREREQUISITE FOR ISSUANCE OF BUILDING PERMITS AND MOBILE HOME PERMITS; PROVIDING FOR REVIEW AND ADJUSTMENT OF THE FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES CAPITAL FACILITIES IMPACT FEES; PROVIDING A METHOD OF PAYMENT OF THE FEES; PROVIDING FOR THE PLACEMENT OF REVENUE COLLECTED FROM FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES CAPITAL FACILITIES IMPACT FEES INTO FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES CAPITAL FACILITIES IMPACT FEE TRUST FUNDS ESTABLISHED FOR THAT PURPOSE; LIMITING THE EXPENDITURE OF FUNDS FROM THE FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES CAPITAL FACILITIES IMPACT FEE TRUST FUNDS TO CERTAIN CAPITAL COSTS; PROVIDING FOR EXEMPTIONS AND CREDITS; PROVIDING FOR REFUND OF UNEXPENDED FUNDS; PROVIDING FOR REVIEW OF THE FEE SCHEDULE; 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.

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FILED

WHEREAS, the Board of County Commissioners of Hernando County wishes to amend the Fire and Emergency Medical Services Facilities Impact Fee Ordinance adopted as Hernando County Ordinance 86-31, 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 impact fees or credits; and

WHEREAS, the Hernando County Comprehensive Plan establishes the policy that land development shall not be permitted unless adequate fire protection and emergency medical services 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 fire protection and emergency medical services 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 fire protection and emergency medical services 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 fire protection and emergency medical services 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:

SECTION ONE: SHORT TITLE, AUTHORITY AND APPLICABILITY

- A. This ordinance shall be known and may be cited as the "Fire Protection and Emergency Medical Services Capital Facilities Impact Fees 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 to Chapter 125 and Section 163.3201, Section 163.3202, and Section 380.06(16) of the Florida Statutes.
- C. This ordinance shall apply to 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 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 ensure that new development bears a proportionate share of the cost of capital expenditures necessary to provide fire protection and emergency medical services capital facilities in Hernando County as contemplated by the Hernando County Comprehensive Plan.

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. "Feepayer" is a person commencing a land development activity by applying for the issuance of a building permit or mobile home permit.
- B. "Fire Protection and Emergency Medical Services Capital Facilities" are buildings, building sites, motor vehicles, communications capital equipment and other capital equipment related to fire protection and emergency medical facilities.
- C. "Capital equipment" is equipment with an expected use life of three (3) years or more.
- D. "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.
- E. "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.
- F. "Building permit" means an official document or official certification which authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation,

SCHEDULE OF IMPACT FEES
IMPLEMENTATION OF GRADUAL INCREASE BY YEAR
FIRE & EMS

LAND USE TYPE	TOWNSHIP 22 SOUTH FIRE DISTRICT			SPRING HILL FIRE DISTRICT		
	1-1-94	10-1-94	10-1-95	1-1-94	10-1-94	10-1-95
Residential, per unit:						
Single-Family, Detached	\$48	\$51	\$54	\$51	\$54	\$56
Single-Family, Attached	43	45	46	45	46	47
Multi-Family, 1 & 2 Story	43	43	43	43	43	43
Multi-Family, 3 & Up	54	54	54	47	47	47
Mobile Home, 1 Acre	48	51	54	51	54	56
Mobile Home, Other	44	47	49	46	48	51
Hotel/Motel, 1 & 2 Story	24	30	37	25	31	38
Hotel/Motel, 3 & Up	31	39	48	28	34	41
Residential - Other	48	51	54	51	54	56
Industrial & Warehousing, per 1,000 sq. ft.						
Industrial - Under 30,000 sq. ft.	25	27	29	26	28	30
Industrial - 30,000 sq. ft. and over	32	34	37	29	30	31
Warehouse - Under 30,000 sq. ft.	19	20	22	20	21	23
Warehouse - 30,000 sq. ft. and over	25	27	29	23	24	26
Storage - Under 30,000 sq. ft.	12	13	14	12	13	14
Storage - 30,000 sq. ft. and over	15	16	17	13	13	14
Office, Financial, Retail & Restaurant, per 1,000 sq. ft.						
Medical - Under 30,000 sq. ft.	100	102	104	106	106	106
Medical - 30,000 sq. ft. and over	130	131	133	118	116	114
General - Under 30,000 sq. ft.	52	56	60	55	58	62
General - 30,000 sq. ft. and over	68	73	78	62	65	67
Retail - Under 30,000 sq. ft. and 36 ft.	101	109	116	107	114	120
Retail - 30,000 sq. ft. or 36 ft. and over	135	148	161	118	123	129
Restaurant - Under 30,000 sq. ft. and 36 ft.	122	151	181	129	158	186
Restaurant - 30,000 sq. ft. or 36 ft. and over	159	196	234	142	171	200

SCHEDULE OF IMPACT FEES
 IMPLEMENTATION OF GRADUAL INCREASE BY YEAR
 FIRE & EMS (Continued)

LAND USE TYPE	NORTHWEST FIRE DISTRICT			HERNANDO BEACH	EAST HERNANDO
	1-1-94	10-1-94	10-1-95	6-1-93	6-1-93
Residential, per unit:					
Single-Family, Detached	\$30	\$38	\$45	\$ 45	\$27
Single-Family, Attached	26	32	37	37	23
Multi-Family, 1 & 2 Story	27	31	35	35	21
Multi-Family, 3 & Up	43	44	46	46	35
Mobile Home, 1 Acre	30	38	45	45	27
Mobile Home, Other	27	34	40	40	25
Hotel/Motel, 1 & 2 Story	16	23	31	31	19
Hotel/Motel, 3 & Up	24	32	40	40	31
Residential - Other	30	38	45	45	27
Industrial & Warehousing, per 1,000 sq. ft.					
Industrial - Under 30,000 sq. ft.	15	19	24	24	14
Industrial - 30,000 sq. ft. & over	24	27	31	31	24
Warehouse - Under 30,000 sq. ft.	12	15	18	18	11
Warehouse - 30,000 sq. ft. & over	19	22	24	24	18
Storage - Under 30,000 sq. ft.	7	9	11	11	7
Storage - 30,000 sq. ft. & over	11	12	14	14	11
Office, Financial, Retail & Restaurant, per 1,000 sq. ft.					
Medical - Under 30,000 sq. ft.	61	73	85	85	52
Medical - 30,000 sq. ft. & over	96	103	111	111	85
General - Under 30,000 sq. ft.	33	42	50	50	31
General - 30,000 sq. ft. & over	51	58	65	65	50
Retail - Under 30,000 sq. ft. & 36 ft.	63	80	96	96	59
Retail - 30,000 sq. ft. or 36 ft. & over	98	112	126	126	96
Restaurant - Under 30,000 sq. ft. & 36 ft.	80	114	149	149	91
Restaurant - 30,000 sq. ft. or 36 ft. & over	121	158	195	195	149

- (1) If a building permit is requested for mixed uses, then the fee shall be determined according to the above schedule by apportioning the space committed to uses specified on the schedule.
 - (2) If the type of 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.
 - (3) In the case of change of use, redevelopment, or modification or expansion of an existing use which requires the issuance of a building permit, the impact fee shall be based upon the net increase in impact for the new use as compared to the previous use.
- 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 calculation methodologies and formats established by the County Administrator.

SECTION SEVEN: PAYMENT OF FEE

- 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 or mobile home permit. Until January 1, 1994, at the option of the feepayer, the feepayer may delay payment by executing a non-interest bearing promissory note payable to the County or municipality for the amount of the fee, which promissory note shall be paid prior to the final building inspection and granting of the Certificate of Occupancy for the development in question.
- B. Pursuant to Florida Statutes Sections 380.06(16), the value of any fire protection and emergency services capital facilities required pursuant to a County or City approved Development Order, except those deemed site related, shall be credited against the Fire Protection and Emergency Medical Services Capital Facilities Impact Fee.

SECTION EIGHT: FIRE PROTECTION AND EMERGENCY MEDICAL FACILITIES IMPACT FEE BENEFIT DISTRICTS CREATED

There are hereby established five (5) Fire Protection and Emergency Medical Facilities Impact Fee Benefit Districts as follows:

- A. Those areas contained within the Spring Hill Fire and Rescue District;
- B. Those areas contained within the Northwest Hernando County Fire Protection Services Unit;
- C. Those areas contained within the Hernando Fire Tax District as well as the land area contained in the City of Brooksville.
- D. Those areas contained within the Hernando Beach Municipal Fire Service Unit; and
- E. Those areas contained within the East Hernando County Fire Protection District

SECTION NINE: FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES CAPITAL FACILITIES IMPACT FEE TRUST FUND ESTABLISHED

- A. A Fire Protection and Emergency Medical Services Capital Facilities Impact Fees Trust Fund is hereby established for each benefit district established in Section Eight of this Ordinance: (1) The Township 22 Fire Protection and Emergency medical Services Impact Fee Trust Fund, (2) the Spring Hill Fire Protection and Emergency Medical Services Impact Fee Trust Fund, (3) the Northwest Fire Protection and Emergency Medical Services Impact Fee Trust Fund, (4) the Hernando Beach Fire Protection and Emergency Medical Services Impact Fee Trust Fund; and (5) the East Hernando Fire Protection and Emergency Medical Services Impact Fee Trust Fund. The fees collected from each benefit district shall be deposited in the appropriate trust fund.
- 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. The collecting governmental unit shall be entitled to up to but not more than 3% of the funds collected to compensate them for the administrative expense of collecting and administering the Fire Protection and Emergency Medical Services Capital Facilities Impact Fee Ordinance. All remaining funds collected from Fire Protection and Emergency Medical Services Capital Facilities Impact Fees shall be used exclusively for the purpose of capital improvements which are of direct benefit to the benefit district from which the funds were collected in Hernando County. Such improvements shall be of the type made necessary by the new development.
- B. Funds shall be expended in the order in which they are collected.
- C. Each fiscal period the County Administrator, after consultation with the affected fire districts, shall present to the Board of County Commissioners proposed capital improvement expenditures for fire protection and emergency medical services, assigning funds, including any accrued interest, from the Fire Protection and Emergency Medical Services Capital Facilities Impact Fees Trust Funds to capital facilities projects and related expenses. Monies, including any accrued interest, not assigned in any fiscal period shall be retained in the Trust Funds until the next fiscal period except as provided by the refund provisions of this ordinance.
- D. In the event that bonds or similar debt instruments are issued for advanced provision of capital facilities for which fire protection and emergency medical services capital facilities 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.

SECTION ELEVEN: REFUND OF FEES PAID

- A. If a building permit expires, then the feepayer, his heirs, successors or assigns, shall be entitled to a refund 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 the costs of refunding.
- B. Any funds not expended or encumbered by the end of the calendar quarter immediately following 6 years from the date the impact fee was paid shall, upon application of the current owner within one hundred eighty (180) days of the expiration of the six (6) year period, be returned to the current owner with interest at the rate of six percent (6%) per annum.

SECTION TWELVE: EXEMPTIONS

A. The following shall be exempted from payment of the Fire Protection and Emergency Medical Services Capital 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 non-residential building or structure with a new building or structure of the same size and use.
5. 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 fire protection and emergency medical 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.
6. A building permit for which the fire protection and emergency medical 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.
7. A building permit which does not result in any additional impact on fire protection and/or emergency medical services.

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.

B. Credits:

1. All Mandatory or Required land dedications and/or fire and emergency medical services facility improvements made by a feepayer subsequent to the effective date of this ordinance shall be credited on a pro rata basis against fire and emergency medical services facilities impact fees otherwise due or to become due for the development that prompted the County or the municipality to require such dedications or fire and emergency medical services facility improvements.
2. A feepayer may obtain credit against all or a portion of fire and emergency medical services facilities impact fees otherwise due or to become due by offering to dedicate needed sites and/or construct needed fire and emergency medical services facility improvements. This offer must specifically request or provide for a fire and emergency medical services facilities impact fee credit. Such construction must be in accordance with applicable design standards. If the County 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 County may have accepted prior to the effective date of this ordinance for particular land dedications and/or facility improvements, or
 - (iii) at the option of the feepayer, by fair market value established by private appraisers acceptable to the County.

Credit for the dedication of 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 County.

- b. Applicants for credit for construction of facility improvements shall submit acceptable engineering drawings and specifications, and construction cost estimates to the County. The County Administrator shall determine credit for fire and emergency medical services facility improvements based upon either these cost estimates or upon alternative engineering criteria and construction cost estimates if the County 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;
 - (ii) a suitable maintenance and warranty bond is received and approved by the County when applicable; and
 - (iii) all design, construction, inspection, testing, bonding and acceptance procedures are in strict compliance with the then current requirements of Hernando County.
- d. Credit may be provided before completion of specified facility 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 Hernando County in an amount determined by the County. If the construction will not be constructed within one (1) year of the acceptance of the offer by the County, the amount of the security may be increased in an amount as determined by the County consistent with its policies and procedures.

3. Any claim for credit must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.
4. Credits shall not be transferable from one project or development to another without the approval of the County Administrator.

SECTION THIRTEEN: REVIEW OF FEE SCHEDULE

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

SECTION FOURTEEN: 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 FIFTEEN: 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 fire and emergency medical services 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 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 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.

ORDINANCE 86-31 IS HEREBY AMENDED AND SUPERSEDED BY THE AMENDED VERSION SET FORTH ABOVE EFFECTIVE ON THE 1ST DAY OF JUNE, 1993.

ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS IN REGULAR SESSION THIS 4th DAY OF MAY, 1993.

BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA

BY *Anthony C. Mosca Jr*
ANTHONY C. MOSCA, JR., CHAIRMAN

ATTEST *Karen Nicolai*
KAREN NICOLAI, CLERK

