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HERNANDO COUNTY ORDINANCE 86 - 27

PUBLIC 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 PUBLIC 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 PUBLIC CAPITAL FACILITIES IMPACT FEES AS THE PREREQUISITE FOR ISSUANCE OF BUILDING PERMITS AND MOBILE HOME PERMITS; PROVIDING FOR REVIEW AND ADJUSTMENT OF THE PUBLIC CAPITAL FACILITIES IMPACT FEES; PROVIDING A METHOD OF PAYMENT OF THE FEES; PROVIDING FOR THE PLACEMENT OF REVENUE COLLECTED FROM PUBLIC CAPITAL FACILITIES IMPACT FEES INTO PUBLIC CAPITAL FACILITIES IMPACT FEE TRUST FUNDS ESTABLISHED FOR THAT PURPOSE; LIMITING THE EXPENDITURE OF FUNDS FROM TO THE PUBLIC CAPITAL FACILITIES IMPACT FEE TRUST FUNDS CERTAIN CAPITAL COSTS; PROVIDING FOR EXEMPTIONS AND CREDITS; PROVIDING FOR REFUND OF UNEXPENDED FUNDS; PROVIDING FOR REVIEW OF THE FEE SCHEDULE; PROVIDING FOR PENALTIES FOR VIOLATION OF THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING AN EFFECTIVE DATE.

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WHEREAS, the Hernando County Comprehensive Plan establishes the policy that land development shall not be permitted unless adequate public 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 public 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 public 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 (1985), has sought to encourage local governments to enact impact fees as land development regulations;

WHEREAS, the Board of County Commissioners of Hernando County has determined that Hernando County must expand its libraries, public buildings, and police protection 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 "Public 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 public 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) "County Administrator" means the County Administrator and/or the county or municipal officials he or she may designate to carry out the administration of this ordinance.

(9) 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. "Public Capital Facilities" are public library buildings and library materials, including books and other media; police and law enforcement buildings, motor vehicles, jails, communications equipment, and any other equipment related to police and law enforcement; other public buildings and equipment for judicial facilities, county administration and operations, offices for constitutional officers and their staffs; acquisition of sites for public buildings; and building design and facility need studies.

Section Five: Imposition of Public Capital Facilities Impact Fee

A. Any person who, after the effective date of this ordinance, seeks to develop land located in Hernando County by

applying for a building permit or mobile home permit to make an improvement to land shall be required to pay a public capital facilities impact fee in the manner and amount set forth in this ordinance.

B. No building permit or mobile home permit for any activity requiring payment of the public capital facilities impact fee pursuant to Section Six of this ordinance shall be issued unless and until the impact fee hereby required has been paid as provided in Section Seven of this ordinance.

Section Six: Computation of the Amount of Public Buildings Impact Fee

A. Except as provided in paragraph B of this section, the amount of the fee shall 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 the processing of independent fee calculation requests.

SCHEDULE OF CAPITAL FACILITIES IMPACT FEES (PER UNIT)

LAND USE TYPE (UNIT)	LIBRARY	PUBLIC BUILDINGS	LAW ENFOR-CEMENT
RESIDENTIAL:			
SINGLE FAMILY, DETACHED	\$21	\$59	\$60
SINGLE FAMILY, ATTACHED	19	54	54
MULTI FAMILY	22	61	62
MOBILE HOME 1 ACRE	21	59	60
MOBILE HOME-OTHER	17	54	55
HOTEL/MOTEL	0	23	23
OTHER RESIDENTIAL	21	59	60
INDUSTRIAL AND WAREHOUSE:			
INDUSTRIAL PER 1,000 SQ FT	0	30	31
WAREHOUSE PER 1,000 SQ FT	0	24	24
STORAGE PER 1,000 SQ FT	0	14	14
OFFICE AND FINANCIAL PER 1,000 SQ FT:			
MEDICAL	0	131	132
GENERAL	0	64	65
RETAIL PER 1,000 SQ FT	0	124	125
RESTAURANT PER 1,000 SQ FT	0	124	125

If a building permit or mobile home 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.

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.

In the case of change of use, redevelopment, or modification or expansion of an existing use which requires the issuance of a building permit or mobile home 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 or mobile home 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 or a mobile home permit shall pay the fee to the County Administrator prior to the issuance of a building permit or mobile home permit. 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 the granting of a certificate of occupancy for the development in question.

B. Pursuant to Florida Statutes Sections 380.06(16)(1985), the value of public capital facilities required pursuant to a County or City approved Development Order, except those deemed site related, shall be credited against the Public Capital Facilities Impact Fee.

Section Eight: Public Capital Facilities Impact Fee Trust Fund
Established

A. Three (3) Public Capital Facilities Impact Fees Trust Funds are hereby established: (1) Library Impact Fee Trust Fund, (2) Public Buildings Impact Fee Trust Fund, and (3) Law Enforcement Impact Fee Trust Fund. The individual portions of the specified Public Capital Facilities Impact Fee as identified in Section Six shall be deposited in the appropriate trust fund.

B. Funds withdrawn from these accounts must be used in accordance with the provisions of Section Nine of this Ordinance.

Section Nine: 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 Public Capital Facilities Impact Fee Ordinance. All remaining funds collected from Public Capital Facilities Impact Fees shall be used for the purpose of capital improvements 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 Sheriff and any other affected constitutional officers, shall present to the Board of County Commissioners proposed capital improvement expenditures for libraries, public buildings, and law enforcement and police protection, assigning funds, including any accrued interest, from the Public 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.

Section Ten: Refund of Fees Paid

A. If a building permit or mobile home 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 Eleven: Exemptions

The following shall be exempted from payment of the Public 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.

An exemption must be claimed by the feepayer at the time of the issuance of a building permit or mobile home permit. Any exemption not so claimed shall be deemed waived by the feepayer.

Section Twelve: 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 Thirteen: 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 feepayer shall have the power to sue in civil court to enforce the provisions of this ordinance.

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: Inclusion Into the 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, the sections of this Ordinance may be re-numbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or other appropriate designation.

Section Sixteen: Effective Date

This ordinance shall become effective on January 1, 1987.

PASSED AND DULY ADOPTED THIS 28th DAY OF October, 1986.

ATTEST:



By: Harold William Brown
Harold William Brown, Clerk

BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA

By: William T. Koenig III
William T. Koenig, III
Chairman

Approved as to form and legal
sufficiency:

[Signature]
Hernando County Attorney

FILED FOR RECORD
HAROLD W.M. BROWN, CLERK
HERNANDO COUNTY, FLA.
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