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SECRETARY OF STATE

HERNANDO COUNTY ORDINANCE 86 - 28

PARKS IMPACT FEE ORDINANCE

AN ORDINANCE RELATING TO THE REGULATION OF THE USE AND DEVELOPMENT OF LAND IN HERNANDO COUNTY, FLORIDA; PROVIDING FOR THE IMPOSITION OF AN IMPACT FEE ON LAND DEVELOPMENT IN HERNANDO COUNTY FOR PROVIDING PARK CAPITAL IMPROVEMENTS NECESSITATED BY SUCH NEW DEVELOPMENT; PROVIDING FOR A SHORT TITLE, STATING AUTHORITY AND APPLICABILITY OF THE ORDINANCE; PROVIDING FOR THE INTENT AND PURPOSES; PROVIDING RULES OF CONSTRUCTION; PROVIDING DEFINITIONS; PROVIDING FINDINGS AND DECLARATIONS OF THE BOARD OF COUNTY COMMISSIONERS; PROVIDING FOR COMPUTATION OF THE AMOUNT OF THE PARKS IMPACT FEE; PROVIDING FOR THE IMPLEMENTATION OF THE HERNANDO COUNTY COMPREHENSIVE PLAN; PROVIDING FOR THE PAYMENT OF A PARKS IMPACT FEE AS THE PREREQUISITE FOR ISSUANCE OF A BUILDING PERMIT; PROVIDING FOR REVIEW AND ADJUSTMENT OF THE IMPACT FEE; PROVIDING A METHOD OF PAYMENT OF THE FEE; PROVIDING FOR ESTABLISHMENT OF PARKS IMPACT FEE TRUST FUNDS; PROVIDING FOR THE PLACEMENT OF REVENUE COLLECTED FROM PARKS IMPACT FEES INTO PARKS IMPACT FEE TRUST FUNDS ESTABLISHED FOR THAT PURPOSE; PROVIDING FOR THE LIMITATION OF THE EXPENDITURE OF FUNDS FROM THE PARKS 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 A PENALTY AND ENFORCEMENT PROVISION; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Hernando County Comprehensive Plan establishes that land development shall not be permitted unless adequate 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 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 of regulating land development so as to ensure that it bears a proportionate share of the cost of 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; 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 parks 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 "Parks Impact Fee 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 Sections 163.3201 and 163.3202(3) 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 parks 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 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) Unless the context clearly indicates to the contrary, the terms "community parks" and "regional parks" shall have the same meaning as those terms are given in the Hernando County Comprehensive Plan.
- (9) "County Administrator" means the County Administrator or whoever he/she may designate to carry out the administration of this ordinance.
- (10) 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 commencing a land development activity by applying for the issuance of a building permit or mobile home permit for a type of land development activity specified in Section Six A of this Ordinance.

B. A "capital improvement" includes parks planning, land acquisition, site improvements, buildings, and equipment, but excludes maintenance and operation.

C. A "private recreational facility" is any recreational facility which is not owned by or dedicated to any governmental entity.

#### Section Five: Imposition of Parks Impact Fee

A. Any person who, after the effective date of this ordinance, seeks to develop land by applying for the issuance of a building permit for one of the residential land use types specified in Section Six of this Ordinance or a mobile home permit shall be required to pay a parks impact fee in the manner and amount set forth in this ordinance.

B. No building permit for any residential land use types specified in Section Six of this ordinance nor mobile home permit shall be issued unless and until the parks impact fee hereby required has been paid as provided in Section Seven of this Ordinance.

Section Six: Computation of the Amount of Parks Impact Fee

A. At the option of the feepayer, the amount of the 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 the independent fee calculation process provided for in paragraph B of this section.

SCHEDULE OF PARKS IMPACT FEES

LAND USE TYPE (UNIT)	IMPACT FEE PER UNIT
RESIDENTIAL:	
SINGLE FAMILY, DETACHED	\$167
SINGLE FAMILY, ATTACHED	152
MULTI FAMILY	173
MOBILE HOME 1 ACRE	167
MOBILE HOME-OTHER	152
HOTEL/MOTEL	66
OTHER RESIDENTIAL	167

If the type of residential 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.

B. The person applying for the issuance of a building permit or mobile home permit may, at his option, submit evidence to the County Administrator indicating that the fees set out in paragraph A above are not appropriate for his particular development. Based upon convincing and competent evidence, the County Administrator may adjust the fee to that appropriate for the particular development. The adjustment may include a credit against the fee otherwise payable of up to 50% for recreational facilities provided to the development by the feepayer if the recreational facilities serve the same purposes and functions as

set forth for county wide and regional parks in the Hernando County Comprehensive Plan.

Section Seven: Payment of Fee

A. The feepayer shall pay the fee to the County Administrator at any time prior to the issuance of any building permit or mobile home permit which may be required for development listed in the schedule in Section Six A. 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. Park land and/or other park capital improvements may be offered by the feepayer as total or partial payment of the required impact fee provided that such offer is consistent with the Hernando County Comprehensive Plan. The offer shall not constitute payment of the impact fee unless and until it is accepted by the Board of County Commissioners and the feepayer has dedicated or conveyed any and all land pursuant to the offer as accepted and has posted security for the construction of any and all capital improvements pursuant to the offer as accepted.

C. Pursuant to Florida Statutes Section 380.06(16)(1985), the value of parkland and/or other park capital improvements required pursuant to a County or City approved Development Order, except those deemed site-related, shall be credited against the Parks Impact Fee.

Section Eight: Parks Impact Fee Districts Created

There are hereby established five (5) Parks Impact Fee Districts as shown in Appendix I attached hereto and incorporated herein by reference.

Section Nine: Parks Impact Fee Trust Funds Established

A. There are hereby established five (5) 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 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 parks impact fee ordinance. All remaining funds collected from parks impact fees shall be used solely for the purpose of capital improvements to park facilities under the jurisdiction of Hernando County or the State of Florida and not for maintenance or operations. Land acquisition and improvements shall be of the type made necessary by the County's growth and development.

B. Except as provided above, funds shall be used exclusively for capital improvements within the parks impact fee district from which funds were collected or for projects in other districts which are of direct benefit to the district from which the funds were collected.

C. 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 improvements 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. Funds shall be deemed expended in the order received.

Section Eleven: Refund of Fees Paid

A. If a building permit or mobile home permit expires and no construction has been commenced, 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 funds as an administrative fee to offset the costs of refunding.

B. Any funds not expended or encumbered by the end of the fiscal year immediately following six (6) years from the date the parks impact fee payment was received 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

The following shall be exempted from payment of the parks 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.

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 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: 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 feepayer shall have the power to sue for relief in civil court to enforce the provisions of this ordinance.



Section Fifteen: 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 Sixteen: Inclusion Into the Code

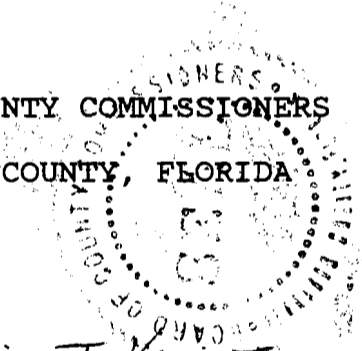
It is the intention of the Board of County Commissioners of Hernando County, Florida, and it is hereby provided, that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of Hernando County, Florida. To this end, the sections of this Ordinance may be re-numbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or other appropriate designation.

Section Seventeen: Effective Date

This ordinance shall become effective on January 1, 1987. DULY PASSED AND ADOPTED THIS 28th DAY OF October, 1986.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF HERNANDO COUNTY, FLORIDA



(SEAL)

By: Harold William Brown  
Harold William Brown, Clerk

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

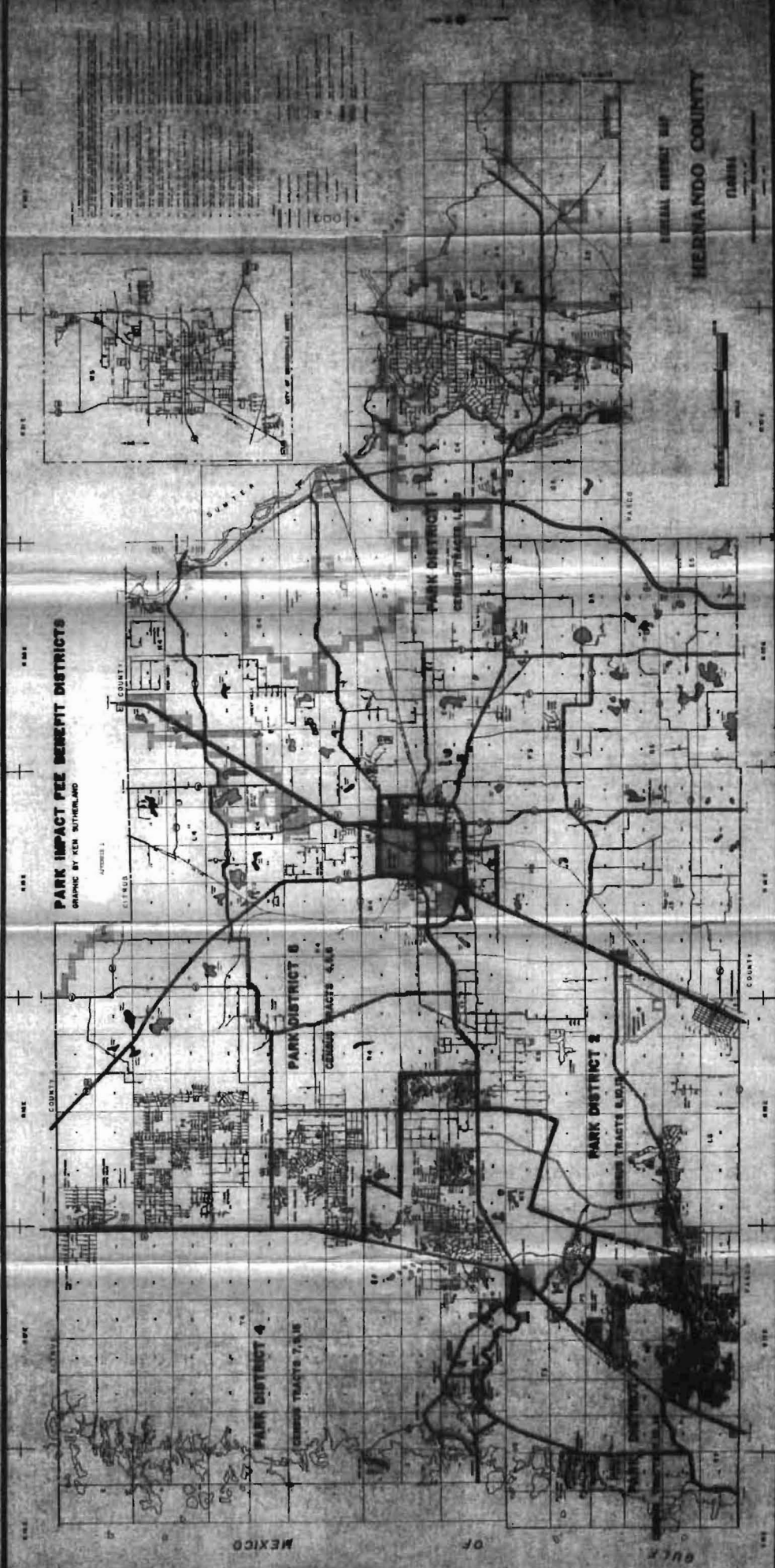
Approved as to form:  
By: [Signature]  
Hernando County Attorney

FILED FOR RECORD  
HAROLD WM. BROWN, CLERK  
HERNANDO COUNTY, FLORIDA  
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# PARK IMPACT FEE BENEFIT DISTRICTS

GRAPHIC BY KEEN SUTHERLAND



HERNANDO COUNTY  
FLORIDA

Scale  
1 inch = 1 mile