

ORDINANCE 01-17

"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 OR CERTIFICATES OF USE; 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 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 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 Public Capital Facilities Impact Fee Ordinance adopted as Hernando County Ordinance 07-16, so as to clarify various provisions thereof, provide a revised schedule of fees, 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 make the ordinance applicable to the issuance of a certificate of use when no building permit is required; and

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

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CLERK OF COUNTY COMMISSIONERS

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 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, 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 "for", "design 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 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 certificate of use.
- 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 capital equipment, and any other capital equipment related to police and law enforcement; other public buildings and capital 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.
- C. "Capital equipment" is equipment with an expected useful 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, erection, demolition, moving or repair of a building or structure. 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 mobile home or recreational vehicle on a site or lot.
- G. "Certificate of use" means a certificate, required by appropriate authority under the provisions of the Zoning Ordinance, which authorizes the occupancy of a structure or premises and is required prior to the occupancy, change in use and under other specific conditions as outlined in the Zoning Ordinance.
- H. "Participating municipality" means any municipality which enters into an interlocal agreement with Hernando County to collect within the municipality the impact fees imposed by this ordinance.

SECTION FIVE: IMPOSITION OF PUBLIC CAPITAL FACILITIES IMPACT FEES

- 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 certificate of use without the need for a building permit to make an improvement to land which shall generate the

need for public capital facilities shall be required to pay a public capital facilities impact fee in the manner and amount set forth in this ordinance. For a building permit for which a complete application is submitted prior to the effective date of this ordinance, the Public Capital Facilities Impact Fee Ordinance in effect on the date of the complete application governs.

- B. No building permit or certificate of use for any activity requiring payment of the public capital facilities impact fee pursuant to Section Six of this ordinance shall be issued by Hernando County or any participating municipality unless and until the impact fee hereby required has been paid.
- C. Impact Fees for existing non-residential buildings: No impact fees shall be charged for existing non-residential buildings except as provided below:
 - 1. All non-residential buildings less than five years old shall be subject to impact fees as required under the provisions of this ordinance.
 - 2. Non-residential buildings over five years old shall be subject to impact fees if the cost of their alteration or conversion for a change of use exceeds 25 percent of the assessed value of the building.
 - 3. An alteration or change of use involving an addition to a non-residential building will be subject to impact fees for the area of the building addition.
- D. Impact fees may be prepaid for any legally existing parcel. Prepaid impact fees shall run with the land and are not transferable from one parcel to another. Prepaid impact fees shall vest the parcel for the land use for which the fees are paid from any increase in the Public Capital Facilities Impact Fee. No refunds shall be made for any prepaid impact fees except as otherwise provided for in this Ordinance.

SECTION SIX: COMPUTATION OF THE AMOUNT OF PUBLIC CAPITAL FACILITIES IMPACT FEES

- A. At the option of the fee payer, the amount of the fee may be determined by the following fee schedule. The reference in the schedule to square feet refers to the gross square footage of each floor of a building measured to the exterior walls, and not usable, interior, rentable, non-common or other forms of net square footage.

SCHEDULE OF IMPACT FEES

CAPITAL FACILITIES

LAND USE TYPE	LIBRARY	BUILDINGS	LAW ENFORCEMENT
Residential			
Single-Family, Detached	\$95	\$192	\$131
Single-Family, Attached	\$79	\$160	\$109
Multi-Family	\$73	\$149	\$101
Mobile Home, 1 Acre	\$95	\$192	\$131
Mobile Home, Other	\$85	\$173	\$118
Recreational Vehicle Lot	\$0	\$93	\$63
Hotel/Motel - Room	\$0	\$93	\$63
Residential - Other	\$95	\$192	\$131
Industrial & Warehousing, Per 1,000 Square Feet			
Industrial*	\$0	\$72	\$49
Warehouse*	\$0	\$53	\$36
Storage*	\$0	\$31	\$21
Office, Financial, Retail & Restaurant, Per 1,000 Square Feet			
Medical*	\$0	\$247	\$168
General*	\$0	\$144	\$98
Retail*	\$0	\$280	\$190
Restaurant*	\$0	\$435	\$296
* Indicates Square Feet of Gross Building Area			

1. If a building permit or certificate of use 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 or certificate of use 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 may or may not require 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 fee payer opts not to have the impact fee determined according to paragraph A of this section, then the fee payer 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. Any adjustment to the fees in the schedule contained in Section Six A may only be based upon impact or use characteristics that are expected to exist throughout the expected life of the structure and may not be based upon temporary or transitory use characteristics.

SECTION SEVEN: PAYMENT OF FEE

- A. The person applying for the issuance of a building permit or certificate of use shall pay the fee to the County Administrator prior to the issuance of a building permit or certificate of use.
- B. Pursuant to Florida Statutes Sections 380.06(16), 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 FUNDS 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 to public capital facilities within Hernando County. Library Impact Fees may be used solely for public capital facilities improvements to the public library system of Hernando County. Public Buildings Impact Fees may be use solely for public capital facilities improvements to public buildings within Hernando County. Law Enforcement Impact Fees may be used solely for law enforcement public capital facilities improvements within Hernando County.

- 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.
- D. In the event that bonds or similar debt instruments are issued for advanced provision of capital facilities for which public 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.

SECTION TEN: REFUND OF FEES PAID

- A. If a building permit expires, then the fee payer, his/her 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 AND CREDITS

- A. 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.
 - 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 public capital facilities 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 public capital facilities 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 public capital facilities.

An exemption must be claimed by the fee payer at the time of the issuance of a building permit or certificate of use. Any exemption not so claimed shall be deemed waived by the fee payer.

B. Credits:

1. All Mandatory or Required land dedications and/or public capital facility improvements made by a fee payer subsequent to the effective date of this ordinance shall be credited on a pro rata basis against public capital facilities impact fees otherwise due or to become due for the development that prompted the County or the municipality to require such dedications or public capital facility improvements.
2. A fee payer may obtain credit against all or a portion of public capital facilities impact fees otherwise due or to become due by offering to dedicate needed sites and/or construct needed public capital facility improvements. This offer must specifically request or provide for a public capital 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 fee payer, 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 public capital 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/her 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 fee payer 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 or certificate of use. 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 TWELVE: APPEAL

Any decision made by the County Administrator or his/her 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 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 public capital facilities 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/her 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 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: CODIFICATION, INCLUSION INTO 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/her designee, without need of public hearing, by filing a corrected or recodified copy of same with the Clerk of Circuit Court.

ORDINANCE 97-16 IS HEREBY AMENDED AND SUPERSEDED BY THE AMENDED VERSION SET FORTH ABOVE EFFECTIVE JUNE 1, 2002.

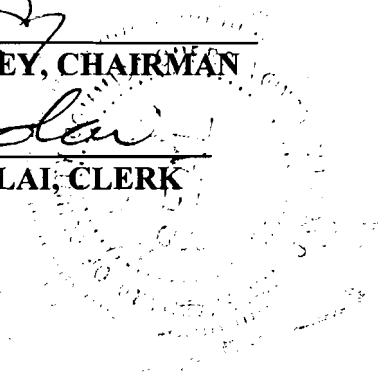
ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS IN REGULAR SESSION THIS 23RD DAY OF OCTOBER, 2001.

**BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA**

BY *Christopher A. Kingsley*
CHRISTOPHER A. KINGSLEY, CHAIRMAN

ATTEST *Karen Nicolai*
KAREN NICOLAI, CLERK

(SEAL)



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