# FLORIDA DEPARTMENT *of* STATE

**RICK SCOTT**
Governor

**KEN DETZNER**
Secretary of State

September 9, 2014

Honorable Neil Kelly
Clerk of the Circuit Court
Lake County
550 West Main Street
P. O. Box 7800
Tavares, Florida 32778-7800

Attention: Amy Knoll

Dear Mr. Kelly:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge of your electronic copy of Lake County Ordinance No. 2014-52, which was filed in this office on September 9, 2014.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR

**R. A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250**
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## Ordinance Summary

This ordinance amends Section 22-11, Lake County Code, regarding Prepayment of Impact Fees, allows for the banking of prepaid educational and transportation impact fees credits or exemptions that were purchased by a property owner prior to June 1, 2014, upon request of a property owner. The banking option will be retroactive to June 1, 2014.

## ORDINANCE NO. 2014- 52

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LAKE COUNTY, FLORIDA; AMENDING SECTION 22-11, LAKE COUNTY CODE, ENTITLED PREPAYMENT OF IMPACT FEES; PROVIDING FOR THE BANKING OF PREPAID IMPACT FEES THAT WERE PURCHASED PRIOR TO JUNE 1, 2014; PROVIDING FOR BANKING TO BE RETROACTIVE TO JUNE 1, 2014; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Chapter 22 of the Lake County Code imposes impact fees for Transportation, Education Facilities, Parks, Libraries and Fire; and

**WHEREAS,** in order to provide relief to those who have prepaid the educational or transportation impact fees prior to June 1, 2014, the Board desires to allow for the banking of such prepayments which could then be transferred to other properties within the same impact fee districts; and

**WHEREAS,** the Board of County Commissioners now finds it is in the best interests of the citizens of Lake County to make this change to the Lake County Code.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of Lake County, Florida as follows:

**1. Recitals.** The foregoing recitals are true and correct an incorporated herein by reference.

**2. Amendment.** Section 22-11, Lake County Code, entitled "Prepayment of Impact Fees," is hereby amended to read as follows:

**Sec. 22-11. Prepayment of impact fees.**

The board of county commissioners recognizes that in some instances some persons may wish to secure firm estimates of impact fees that may be due in connection with a proposed development and not be subject to increases in the fee schedules prior to the issuance of the building permit or, where no building permit is required, issuance of the final development order.

In such a case, prior to issuance of the building permit, or where no building permit is required, issuance of a final development order, Lake County shall or the municipality may, at its option, accept payment of the estimated impact fees. The provisions of this section are optional for municipalities, and no municipality shall be required to accept prepayments of impact fees, except that a municipality shall accept a valid prepayment certificate if issued by the county. Should a person utilize the option of prepayment allowed by this section, the following rules shall apply:

(1) For new single-family residential development, pre-payment of impact fees shall not be permitted until the final plat is recorded in the public records of Lake County, Florida.

(2) The amount of impact fees shall not be subject to adjustment at the time of building permit or final development order so long as the proposed development has not been modified to the extent that the impact is increased by a change in the plans. If the plans for the proposed development are changed in such a way that the impact has been increased, the impact fee will be determined at the time of building permit or final development order utilizing whatever fee schedules are in effect at that time, with credit being provided for the amount of prepayment. As provided in (3) below, if a building permit or final development order is not obtained within twelve (12) months from the date of prepayment, the amount of impact fees will be recalculated at the time the building permit or final development order is obtained, with the applicant obtaining a credit for the amount of the prepayment.

(3) Except as provided for in subsection (4) below, prepaid impact fees can only be used for the particular project and on the particular land, or in the case of a recorded plat, the particular lot, which is the subject of the building permit or final development order. These prepayments cannot be transferred to any other real property.

(4) ~~For so long as the collection of the educational impact fees are suspended, educational prepayments made prior to January 1, 2011 may be converted into educational impact fee credits or exemptions if a building permit is issued during the suspension of collection period for a lot or parcel of property that has previously been prepaid. For so long as the collection of the transportation impact fees are suspended, transportation prepayments made prior to March 1, 2010~~ Educational and transportation prepayments that were purchased prior to June 1, 2014 may be converted into ~~transportation~~ impact fee credits or exemptions as set forth below, and banked with the County for use on another parcel of property within the same impact fee district. ~~if a building permit is issued on or after July 1, 2011 on a lot or parcel of property that has been previously prepaid. Large scale conversions of prepaid impact fees shall not be permitted in the absence of the issuance of an associated building permit(s).~~ Upon receipt of a notarized affidavit from the owner of record requesting to convert prepayments into credits or exemptions and bank them, the county manager or designee shall establish an account in the name of the owner of record and credits or exemptions shall be applied as follows:

a. For pre-payments made on or after April 1, 2008, the conversion of prepaid impact fees to credits shall be equal to the actual amount prepaid.

b. For pre-payments made before April 1, 2008, the account shall be credited with one (1) transportation or school impact fee exemption for each building permit obtained

on a lot or parcel that was previously prepaid. The exemption shall be transferrable to another lot or parcel within the same impact fee district and shall exempt the property from payment of the transportation or educational impact fee regardless of whether the fee is more or less than the actual amount pre-paid.

In the event the owner of record desires to transfer any portion of the impact fee credits, or desires to transfer an impact fee exemption(s), to another party, the owner of record shall submit a notarized affidavit to the county manager or designee indicating to whom the credits or exemptions are to be transferred. Upon receipt of the notarized affidavit, the impact fee credits or exemptions shall be transferred to a similar account established for the transferee. In no event shall the transferee be entitled to further transfer those same credits or exemptions to a second transferee.

~~(5) For so long as the collection of the educational impact fees are suspended, educational prepayments made prior to January 1, 2011 may be converted into educational impact fee credits or exemptions if the property upon which the prepayments have attached is being sold to a third-party bona fide purchaser. For so long as the collection of the transportation impact fees are suspended, transportation prepayments made prior to March 1, 2010 may be converted into transportation impact fee credits or exemptions if the property upon which the prepayments have attached is being sold to a third-party bona fide purchaser. The county manager or designee shall establish an account in the name of the owner of the credits or exemptions, upon receipt of the following:~~

~~a. A notarized affidavit executed by both the seller and the buyer acknowledging that the seller will retain control over the prepayments after the closing date;~~

~~b. Sufficient proof that there were no mortgages of record, or that any mortgage of record was satisfied;~~

~~c. Sufficient proof that the title has transferred to the buyer.~~

~~Once an account has been established, credits or exemptions shall be applied as follows:~~

~~a. For pre-payments made on or after April 1, 2008, the conversion of prepaid impact fees to credits shall be equal to the actual amount prepaid.~~

~~b. For pre-payments made before April 1, 2008, the account shall be credited with one (1) transportation or school impact fee exemption for each lot sold. The exemption shall be transferrable to another lot or parcel within the same impact fee district and shall exempt the property from payment of the transportation or educational impact fee regardless of whether the fee is more or less than the actual amount pre-paid.~~

~~In the event the owner of record desires to transfer any portion of the impact fee credits, or desires to transfer an impact fee exemption(s), to another party, the owner of record shall submit a notarized affidavit to the county manager or designee indicating to whom the credits or exemptions are to be transferred. Upon receipt of the notarized affidavit, the impact fee credits or exemptions shall be transferred to a similar account established for the transferee. In no event shall the transferee be entitled to further transfer those same credits or exemptions to a second transferee.~~

(~~6~~5) Prepaid impact fees shall only be valid to avoid adjustment of the impact fees based on a new fee schedule for a period of twelve (12) months from the date of issuance. If the building permit or final development order is not obtained by that date, or after being obtained, is allowed to expire, impact fees shall be recalculated at the time of issuance of the permit (or new permit as the case may be) using the then current impact fee schedules with a credit being given for the amount of the previous prepayment.

(~~7~~6) The prepaid impact fee shall not be refundable for any reason other than failure of the impact fee being expended as required by section 22-13(b), below. If the plans for the proposed development are changed in such a way that the impact has been decreased, or if a building permit or final development order has not been issued, the prepaid impact fee (or portion thereof, as the case may be) shall not be refundable. Credit will be given for a different project on the same site in the future in an amount equal to the prepayment, however, the fees shall be determined using the fee schedule in existence at the time of approval of the new development. Transportation or educational impact fee credits converted under this section shall not be refundable.

(~~8~~7) Except as provided for in subsection (8), payment of capacity reservation fees as required by Chapter V, Lake County Code, Appendix E, Land Development Regulations, entitled Concurrency, shall not constitute prepayment of impact fees. However, a developer, at the time the capacity reservation fee is paid, may elect to utilize the provisions of this section and prepay any applicable impact fees in full.

(9) ~~For so long as the collection of educational impact fees are suspended, upon issuance of a building permit, the educational capacity reservation fee, if applicable, associated with the property subject to the building permit may be converted into educational impact fee credits equal to the amount paid at the request of the property owner, or may be refunded. Additionally, for so long as the collection of transportation impact fees are suspended, upon issuance of a building permit, the transportation capacity reservation fee, if applicable, associated with the property subject to the building permit may be converted into transportation impact fee credits equal to the amount paid at the request of the property owner. Requests shall be made as set forth in subsection (4) above except that any request for an educational fee refund must be made on or before August 1, 2011.~~

(~~10~~8) An administrative fee as set by the board of county commissioners by resolution shall be charged each time an applicant elects to use the prepaid impact fee method.

**Section 3.** **Retroactive Effect.** The ability to bank pre-paid educational and transportation impact fee credits shall be made effective retroactive to June 1, 2014; provided, however, that any person requesting the banking of such pre-payments shall still be required to provide the required documentation as set forth in Section 22-11(4) above for those properties sold or transferred between June 1, 2014 and the effective date of this Ordinance.

**Section 4.** **Severability.** If any section, sentence, clause, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portion of this Ordinance.

**Section 5.** **Inclusion in the Code.** It is the intent of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Lake County Code and that the 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.

**Section 6.** **Filing with the Department of State.** The clerk shall be and is hereby directed forthwith to send a certified copy of this Ordinance to the Secretary of State for the State of Florida.

**Section 7.** **Effective.** This Ordinance shall become effective as provided for by law.

Enacted this 26 day of AUGUST, 2014.

Filed with the Secretary of State Sept 9, 2014.

ATTEST:

Neil Kelly, Clerk of the
Board of County Commissioners
of Lake County, Florida

BOARD OF COUNTY COMMISSIONERS
OF LAKE COUNTY, FLORIDA

Jimmy Conner, Chairman

This _____ day of _____, 2014.

Approved as to form and legality:

Sanford A. Minkoff
County Attorney