



SECTION 30. ECONOMIC AND COMMUNITY DEVELOPMENT SERVICES

30.30 EDUCATIONAL SYSTEM IMPACT FEE VESTED RIGHTS PROCESS

A. PURPOSE AND SCOPE. On January 9, 2018, the Board of County Commissioners of Seminole County (BCC) adopted an Ordinance amending the Educational System Impact Fee, Chapter 105 of Land Development Code of Seminole County (LDC) which includes Section 105.43, Vested Rights. LDC Section 105.43 provides that prior to the effective date of the Chapter (April 10, 2018), which is the first business day after ninety (90) days from adoption of the amending Ordinance, the County may enter into a written vested rights agreement with the owner of property in the unincorporated area of the County to provide that the owner's property shall be subject to payment of the Educational System Impact Fee rate in effect immediately prior to the amendment of the Ordinance. The process and considerations for determination of those circumstances under which County will enter into such vested rights agreement are set forth in this Administrative Code Section.

B. APPLICATION.

(1) The fee simple owner of property or its designated agent may submit an application to the Development Services Department Director for a Vesting Certificate. The application fee is FIVE HUNDRED AND NO/100 DOLLARS (\$500.00) and must accompany the submittal of an application.

(2) This Educational System Impact Fee Amendment Ordinance and this Administrative Code Section are not intended to impair the obligation of any contract in existence as of January 9, 2018. Should the increase in the Educational System Impact Fee create such an impairment, the increased impact fee shall not be imposed on the property that is the subject of the contract in existence as of January 9, 2018, but instead such property shall be subject to the impact fee in effect as of January 8, 2018. An application claiming vesting as a contract in existence as of January 9, 2018 shall include the following information:

(a) The applicant must provide a copy of the executed contract for the sale or development of the subject property, which may be redacted for trade secrets and proprietary confidential business information;

(b) Said contract was executed on or prior to January 9, 2018 and is accompanied by evidence indicating such execution. Notarization of signatures with a specified date of on or prior to January 9, 2018 shall be considered sufficient evidence;

(c) Evidence that said contract was entered into in good faith, and was not merely entered into as a means of grandfathering against the updated Educational System Impact Fees;

(d) The applicant must submit signed and notarized statements from all parties to the contract that said contract remains valid for the subject property;

(e) The applicant must submit a signed and notarized statement that earnest money for the transaction has been paid for said contract; and



(f) Evidence that said contract specifically addressed the responsibility for payment of impact fees, and the applicant can demonstrate that the assessment of Educational System Impact Fees under the rates effective on April 10, 2018 will result in an immediate diminishment in the value of the subject contract to the extent of rendering it materially devoid of profit to a contracting party.

(3) In those situations where on a property the governmental permitting process has commenced prior to January 9, 2018, but the issuance of a building permit for the Educational System Impact Construction will not occur until on or after April 10, 2018, an application for a Vesting Certificate may be submitted and shall include the following information:

(a) The name of the owner of the fee interest in the property and, if applicable, the name of the designated agent;

(b) Proof of ownership of the property. If the applicant is not the owner of the fee title to the property, then the applicant shall present an affidavit of authority providing for the applicant's authorization to seek approval of the Vesting Certificate on behalf of the fee owner. The affidavit of authority shall be signed by the property owner and said signature shall be properly attested by a notary public;

(c) A site plan or survey/sketch of description of the subject property to be subject to the Vesting Certificate showing:

(i) The overall parcel; and

(ii) The number and types of units;

(d) A typed copy of the legal description of the subject property;

(e) A statement outlining the background of the project permitting history and explaining the development process that applicant claims warrants a Vesting Certificate which shall, at a minimum, establish that:

(i) A development order has been issued or the County has otherwise taken official action specifically with respect to development of the Educational System Impact Construction; and

(ii) Extensive obligations or expenses (other than land purchase costs and payment of taxes) including, but not limited to, legal and professional expenses related directly to the development of the Educational System Impact Construction have been incurred or there has otherwise been a substantial change in position by the applicant; and

(iii) Such obligations, expenses and change in position were undertaken by the applicant in good faith reliance on the actions taken by the County; and

(iv) It would be unfair to deny the applicant the opportunity to complete the Educational System Impact Construction based on the Educational System Impact Fee rates in effect as of January 8, 2018.

C. REVIEW OF APPLICATION. The Development Services Department Director shall be responsible for reviewing all applications for a Vesting Certificate. The Development Services Department shall, with assistance from the County Attorney’s Office, first investigate the application to determine whether it meets the requirements of Section B(2) or B(3). The BCC hereby delegates to the Development Services Department Director the authority to approve or deny Vesting Certificates. Each approval or denial shall state the facts and reasoning upon which the decision was made. Within thirty (30) days of the receipt of a denial of a Vesting Certificate from the Development Services Department Director, the applicant may file an appeal to the BCC, including supporting reasoning and documents, and the appeal shall be brought before the BCC for consideration at a public hearing in accordance with LDC Section 20.12.

D. IMPORTANT DATES.

Date	Significance
(1) January 9, 2018	Adoption date of Educational System Impact Fee Amendments Ordinance
(2) March 5, 2018	Suggested date to have Vesting Certificate Application filed. Reason: 55 days from adoption date; in the event of denial an appeal is to be filed within 30 days of denial per LDC Section 20.12.
(3) April 2, 2018	Deadline to file Vesting Certificate Application. Reason: Provides the Development Services Department Director with 5 business days to render a decision to approve or deny a Vesting Certificate Application.
(4) April 9, 2018	A Vesting Certificate must be effective pursuant to LDC Section 105.43; <i>i.e.</i> , the Vesting Certificate Agreement must be signed by the County and the applicant
(5) April 10, 2018	New Education System Impact Fee rates go into effect.
(6) May 10, 2018	Last day to file an appeal to the BCC of denial of Vesting Certificate if denial was issued by the Development Services Department Director on April 9, 2018. NOTE: Per LDC Section 20.12 an appeal must be filed within 30 days of date of denial.



E. RULES OF CONSTRUCTION FOR AN APPEAL OF DENIAL OF A VESTING CERTIFICATE BY THE DEVELOPMENT SERVICES DEPARTMENT DIRECTOR. The Appeal process shall comply with LDC Section 20.12. An appeal of a denial by the Development Services Department Director shall be filed no later than thirty (30) days from the date of the denial letter. For denial of a Vesting Certificate issued on or before April 9, 2018, an applicant shall have thirty (30) days to file a written appeal of such denial consistent with Section 20.12. The BCC shall consider the appeal and either affirm or overturn the Development Services Department Director's denial of the Vesting Certificate. In the event the Development Services Department Director's denial is overturned by the BCC, a new Vesting Certificate shall be issued and executed by the County and the applicant.

The County will not accept or consider any Vesting Certificate Application filed after April 2, 2018.

F. AUTHORITY. Resolution 2018-R-_____ adopted January 23, 2018