

ORDINANCE NO. 24-036

AN ORDINANCE BY THE BOARD OF COUNTY COMMISSIONERS OF ST. LUCIE COUNTY, FLORIDA, AMENDING CH. 24, IMPACT FEES, ART. VIII, ROAD IMPACT FEE, SECS. 24-259 AND 24-264, CREDITS, TO REQUIRE A SECURITY TO BE POSTED FOR BUILDING PERMIT ISSUANCE PRIOR TO CONSTRUCTION OF AGREED-TO IMPROVEMENTS; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY AND APPLICABILITY; PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR CODIFICATION; AND PROVIDING FOR ADOPTION.

WHEREAS, Article VIII. - Roads Impact Fee (Sections 24-255 through 24-270) of the St. Lucie County Code of Ordinances is intended to implement and be consistent with the goals, objectives and policies of the St. Lucie County Comprehensive Plan; and

WHEREAS, the purpose of the Roads Impact Fee Article 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 roads in the county as contemplated by the St. Lucie County Comprehensive Plan; and

WHEREAS, Section 24-264 of the St. Lucie County Code of Ordinances (Code) provides that any person who shall commence any traffic impact-generating land development activity may apply for a credit against the required road impact fee for any contribution, construction or dedication of land made by such person or predecessor in interest made by such person and accepted and received by the county, state or federal agency for transportation infrastructure that are creditable pursuant to said Section 24-264; and

WHEREAS, Section 24-264 further provides that any person desiring a road impact fee credit, who proposes to make any contribution, construction or dedication of transportation infrastructure that is identified in the County's Comprehensive Plan, shall first obtain from the Board of County Commissioners an approval that the proposed contribution, construction or dedication is considered to be eligible for a road impact fee credit. Upon the determination by the Board that the proposed contribution, construction or dedication is eligible for a roads impact fee credit, the final amount of the credit shall be determined upon the submission of a request for roads impact free credit and the entering into of a formal roads impact fee credit agreement; and

WHEREAS, the Section 24-259 of the Code requires that any feepayer shall pay impact fees as a condition of issuance of a building permit; and

WHEREAS, developers applying for impact fee credits sometimes request issuance of a building permit prior to construction of the agreed-to improvements required for issuance of the impact fee credits; and

WHEREAS, the Board of County Commissioners desires to amend Chapter 24, Impact Fees, Article VIII, Road Impact Fee, Sections 24-259, Payment of Fee, and 24-264, Credits, to require security to be posted for building permits issued prior to construction of agreed-to improvements; and

WHEREAS, requiring a feepayer to post security for credits prior to construction of creditable improvements will protect the County from the possibility of litigation to recover the amounts credited in the event the feepayer fails to construct the creditable improvements and is in the public interest.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of St. Lucie County, Florida:

SECTION 1. RATIFICATION OF RECITALS. The foregoing recitals are hereby ratified and confirmed as true and correct and are hereby made a part of this Ordinance.

SECTION 2. Chapter 24, Impact Fees, Article VIII, Road Impact Fee, Section 24-259(b) is amended as follows:

Sec. 24-259. Payment of fee.

(a) The feepayer shall pay the fee to the county administrator as a condition of issuance of a building permit or electrical permit for a recreational vehicle park or mobile home park.

(b) In lieu of all or part of the roads impact fee, the county administrator may accept an alternative impact fee pursuant to section 24-6 or the board of county commissioners may accept the offer by a developer to construct, dedicate or acquire right-of-way for part of a road infrastructure improvement project shown in the county comprehensive plan or in the St. Lucie Transportation Planning Organization Long Range Transportation Plan (needs plan) or appropriate to the implementation thereof. Such construction must be in addition to any road improvements required pursuant to other ordinances. In addition, the construction, dedication or acquisition of right-of-way must only be for purposes as set out in section 24-261. The developer shall submit a cost estimate certified by a registered Florida professional engineer and acceptable to the board of county commissioners or their designee, who shall credit the cost of the construction against the road impact fee otherwise due. The portion of the fee represented by the road construction shall be deemed paid when the construction is completed and accepted by the county, or state or other appropriate governmental entity acceptable to the county commission for maintenance or when adequate security for the completion of the construction has been provided pursuant to the requirements set forth in 24-264(e).

(c) In the event the developer proposes to dedicate or acquire right-of-way, the provisions of section 24-260(6) shall apply. The portion of the fee represented by the right-of-way dedications or acquisitions shall be deemed paid only when the dedicated or acquired property is officially accepted by the county or other appropriate governmental entity.

(d) If road impact fees are owed, no development permits of any type may be issued for the building or structure in question while the fee remains unpaid. The county administrator may authorize the initiation of any action as permitted by law or equity to collect the unpaid fees.

(e) The roads impact fee shall be calculated according to the rate in effect at the time of payment, unless otherwise provided herein.

(f) In the event the roads impact fee is not paid at or prior to the issuance of a building permit, the impact fee shall be collected prior to the issuance of certificate of occupancy or by any other method which is authorized by law, unless, otherwise exempted pursuant to this chapter.

(g) The payment of the impact fees shall be in addition to all other fees, charges or assessments due for the issuance of a certificate of occupancy or building permit.

(h) The obligation for payment of the impact fees shall run with the land.

SECTION 3. Chapter 24, Impact Fees, Article VIII, Road Impact Fee, Section 24-264, Credits, is amended to add the following subsection (e):

Sec. 24-264. Credits.

* * * *

(e) Security required for building permit issuance prior to construction of improvements. In the event a feepayer receives approval from the board of county commissioners for road impact fee credits for the construction of transportation infrastructure and the feepayer desires issuance of a building permit prior to construction of the transportation infrastructure, the feepayer is required to post a security for the costs of such construction.

(1) Form of security. The feepayer must submit to the county administrator or designee, in an appropriate form approved by the county attorney, appropriate security which could include a cash bond, a surety performance bond or an automatically renewable, irrevocable letter of credit (hereinafter referred to as a security), in an amount equal to 115% of the full cost of the agreed-to improvements. The basis of costs for the agreed-to improvements shall be determined by the feepayer's engineer of record's estimate of probable costs as approved and accepted by the county engineer, and payable to the St. Lucie County Board of County Commissioners. A letter of credit must be automatically renewable unless notice of intent to cancel or not to renew is given to the county administrator or designee not later than 60 days prior to the renewal date.

(2) Default.

a. In the event (i) the county receives notification from the principal that the security will be canceled or notification of intent not to renew before all agreed-to improvements have been completed and accepted by the appropriate governmental entity with jurisdiction; or (ii) the county determines that terms of the agreement for the agreed-to improvements as set forth in the security agreement have not been complied with, the county, in accordance with the security agreement, will default

the security, and collect the full amount of the security to be used for completion of the agreed-to improvements and other expenses.

- b. If the cost incurred by the county to complete the agreed-to improvements exceeds the amount received from the security, the county will provide notice to the feepayer. The feepayer must pay the difference within 10 days receipt of the notice.
- c. Any surplus from the security proceeds following completion of the agreed-to improvements will be returned to the fee payor, property owner, or surety as applicable.
- d. The rights and remedies set forth herein are cumulative and in addition to any other rights and remedies available at law or equity.

(3) Issuance of building permits.

- a. Upon posting with, and acceptance of such security by the county administrator or designee, the building official may issue building permits for that part of the proposed development determined by the county to be satisfied by the credit.
- b. In the event a feepayer receives approval from the board of county commissioners for road impact fee credits for the construction of transportation infrastructure and the feepayer desires issuance of a building permit prior to construction of the transportation infrastructure and pays the required impact fees instead of posting a security for the costs of such construction pursuant to this subsection (e), the feepayer shall not be entitled to a cash refund for any impact fees paid and may assign and transfer the impact fee credits from one development or parcel to any other that is within the same impact fee zone or within an adjoining impact fee zone pursuant to s. 163.31801 (10), Fla. Stat. (2024).
- c. The county shall have the option to withhold a certificate of occupancy or temporary certificate of occupancy be issued until the required improvements have been completed and accepted by the applicable governmental entity with jurisdiction over the improvement or the impact fees have been paid.

(4) Release of security. Release of a security shall not be approved until such improvements have been completed and accepted by the applicable governmental entity with jurisdiction over the improvement.

(5) Assignment. If the road or facility is to be owned by another governmental entity, the county may assign its rights in such security to the applicable governmental entity with jurisdiction over the improvement.

SECTION 4. CONFLICTING PROVISIONS. Special acts of the Florida legislature applicable only to unincorporated areas of St. Lucie County, and adopted prior to January 1, 1969, County ordinances and County resolutions, or parts thereof, in conflict with this ordinance are hereby superseded by this ordinance to the extent of such conflict.

SECTION 5. SEVERABILITY AND APPLICABILITY. If any portion of this ordinance is for any reason held or declared to be unconstitutional, inoperative, or void, such holding shall not affect the remaining portions of this ordinance. If this ordinance or any provision

thereof shall be held to be inapplicable to any person, property, or circumstance, such holding shall not affect its applicability to any other person, property, or circumstance.

SECTION 6. FILING WITH THE DEPARTMENT OF STATE. The Clerk is hereby directed forthwith to send a certified copy of this ordinance to the Department of State.

SECTION 7. EFFECTIVE DATE. A certified copy of this ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners of St. Lucie County within ten days after enactment by the Board, and this ordinance shall take effect upon filing with the Department of State.

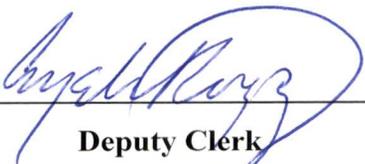
SECTION 8. CODIFICATION. Provisions of this ordinance shall be incorporated in the St. Lucie County Code, and the word "ordinance" may be changed to "section", "article", or other appropriate word, and the sections of this ordinance may be renumbered or relettered to accomplish such intention.

SECTION 9. ADOPTION. After motion and second, the vote on this ordinance was as follows:

Chair Cathy Townsend	AYE
Vice Chair Chris Dzadovsky	AYE
Commissioner Linda Bartz	AYE
Commissioner Jamie Fowler	AYE
Commissioner Larry Leet	AYE

PASSED AND DULY ADOPTED this 12th day of November, 2024.

ATTEST:



Deputy Clerk

**BOARD OF COUNTY COMMISSIONERS
ST. LUCIE COUNTY, FLORIDA**

BY: 

Chair



**APPROVED AS TO FORM AND
CORRECTNESS:**

BY: 

ASST. County Attorney