

ORDINANCE 55 - 16

AN ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE II, FEES, DIVISION 5, ROAD IMPACT FEES, SECTION 2-24.31, EXEMPTIONS AND CREDITS, OF THE CITY OF CAPE CORAL CODE OF ORDINANCES, BY INCREASING THE EXPIRATION TIME FOR ROAD IMPACT FEE CREDITS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, road impact fee credits for non-site related roadway improvements or non-site related right-of-way dedications had been issued prior to the "great recession"; and

WHEREAS, new development was severely curtailed due to the "great recession"; and

WHEREAS, holders of road impact fee credits could not utilize, or transfer, the credits to other developments since new development was affected due to the economic downturn; and

WHEREAS, the Cape Coral City Council has determined the health, safety, and welfare of the City will be enhanced by increasing the time for which road impact fee credits expire.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS THIS ORDINANCE AS FOLLOWS:

SECTION 1. The City of Cape Coral Code of Ordinances, Chapter 2, Article II, Section 2-24.31(b)(4), is hereby amended as follows:

2-24.31 Exemptions and credits.

(a) *Exemptions.* ...

(b) *Credits.*

(1) No credit shall be given for site related improvements.

(2) All non-site related roadway improvements and/or non-site related right-of-way dedications required under a city development approval, may entitle the fee payer to a credit. Only those off-site improvements and/or right-of-way dedications deemed appropriate and beneficial to the overall level of service and/or roadway capacity will be eligible for credits. The city shall determine the estimated or actual cost of non-site-related roadway improvements by using actual cost or the engineer's estimate. The value of right-of-way dedications shall be determined by a certified appraisal performed by an appraiser who is acceptable to the city. The appraisal shall be at the expense of the property owner. For developments that are not going to obtain building permits at the time the improvements or dedications are made, estimates of anticipated impact fee amounts shall be used to determine the amount of impact fee credits and the method by which those credits were determined shall be contained in a development agreement or PDP development order. The amount of impact fee credits granted for any property shall not exceed the anticipated road impact fees to be collected from that property.

(3) Impact fee credits shall be granted only after acceptance of the right-of-way dedication, acceptance by the city of the completed roadway improvements, or the posting of security to ensure the construction of the roadway improvements as provided in § 2-24.27(c) above.

(4) Road impact fee credits ~~created after October 25, 1993,~~ may, at the option of the property owner, be in transferable form. Transferable credits may be sold, assigned or otherwise conveyed by the holder thereof. Credits may be used by any bona fide holder thereof to pay for or otherwise offset road impact fees required by this article, provided, however, that road impact fee credits issued for commercial developments may only be used to pay for impact fees due for commercial development. In instances where impact fee credits are issued for mixed use developments, the amount of commercial impact fees shall be allocated based on the number of trips projected to be generated by the commercial uses in the mixed use development. Changes in the amount of impact fees charged under this article shall not ~~effect~~ the dollar value of impact fee credits which have been issued. Impact fee credits must be used within ~~ten~~ fifteen years of the date they are created.

Credits not used during this period shall be canceled by the city. Transferred impact fee credits may not be used to satisfy any concurrency requirements.

(5) Credits not claimed by the feepayer at the time creditable improvements are constructed or when right-of-way is dedicated shall be deemed waived.

(6) Once used, credits shall be canceled by the city and shall not be re-established even if the permit for which they were used expires without construction

SECTION 2. Severability. In the event that any portion or Section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or Sections of this ordinance which shall remain in full force and effect.

SECTION 3. Effective Date. This ordinance shall become effective immediately after its adoption by the Cape Coral City Council.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS 5th DAY OF December, 2016.

Marni L. Sawicki
MARNI L. SAWICKI, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

SAWICKI aye
BURCH aye
CARIOSCIA aye
STOUT aye

LEON aye
ERBRICK aye
WILLIAMS excused
COSDEN aye

ATTESTED TO AND FILED IN MY OFFICE THIS 14th DAY OF December, 2016.

Rebecca Van Deutekom
REBECCA VAN DEUTEKOM
CITY CLERK

APPROVED AS TO FORM:

Dolores D. Menendez
DOLORES D. MENENDEZ
CITY ATTORNEY
11/02/16