

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: Development/Planning/Zoning	CODE NUMBER: AC-13-20 (Moved from AC-14-9)
TITLE: Community Parks Impact Fee Ordinance and Regional Parks Impact Fee Ordinance Administrative Code	ADOPTED: 02/05/86
	AMENDED: 05/06/92; 11/09/94; 07/1/97; 11/27/01; 08/28/07
	ORIGINATING DEPARTMENT: County Attorney

PURPOSE/SCOPE:

The purpose of this administrative code is to guide staff in the administration of Land Development Code (LDC), Chapter 2, Article VI, Divisions 3 and 4, (Regional Park Impact Fee and Community Park Impact Fee regulations). This code is intended to supplement the provisions of the Ordinances and it specifically supersedes Administrative Code AC-14-9 "General Administrative Guidelines and Procedures for Implementation of the Parks Impact Fee Ordinance" (Lee County Ordinance 85-24; Adopted July 31, 1985; Effective September 16, 1985; most recently amended in Lee County Ordinance 01-13; adopted August 28, 2001; Effective September 5, 2001). If any of the provisions of this code conflict with the provisions of the Ordinances, the provisions of the Ordinances shall control.

POLICY/PROCEDURE:

I. ADMINISTRATIVE ORGANIZATION & RESPONSIBILITY

A. Impact Fee Administrator/Building Officials

The County Manager, or designee, will carry out the general administration of the Ordinances. The County Manager may designate another County staff member to serve as the "Impact Fee Administrator".

The Building Official of each participating municipality is hereby designated by the County Manager to administer the Ordinances within the boundaries of that municipality.

B. County Manager/Public Works Construction and Design Department, and Public Parks and Recreation Division

The Public Works Construction and Design Department and the Public Parks and Recreation Division or successor agencies will assist the Impact Fee Administrator in the following areas:

1. Land Use Determination - When a land use is not listed in the fee schedules, or in the list of previously determined miscellaneous land uses, the Public Works Construction and Design Department and the Public Parks and Recreation Division will assist the Impact Fee Administrator in establishing parks impact fees by determining the most nearly comparable type of land use listed in the fee schedules.

2. Independent Fee Calculations - Upon submission of an independent fee calculation, the Public Works Construction and Design Department and the Public Parks and Recreation Division will be invited to attend pre-application meetings; review the independent fee calculation study for sufficiency, methodology, technical accuracy, and findings; and make recommendations to the Impact Fee Administrator concerning the appropriate amount of the parks impact fees based on the procedures described in the Ordinances and in this Code.
3. Exemptions, Refunds and Recalculations - The Public Works Construction and Design Department and the Public Parks and Recreation Division will assist the Impact Fee Administrator in determining whether exemptions from parks impact fees are appropriate, refunds are justified or recalculation of the fees necessary in the event of a change of use, redevelopment, or modification of an existing land use.
4. Fee Adjustments - The Public Works Construction and Design Department and the Public Parks and Recreation Division will recommend to the Impact Fee Administrator an appropriate parks impact fee in response to any claim to a fee adjustment under LDC Sections 2-306(d) and 2-346(d).
5. Parks Impact Fee Credits - The Public Works Construction and Design Department and the Public Parks and Recreation Division will recommend whether parks impact fee credits should be issued for the dedication or construction of park facilities and the amount of the credits.

C. The Department of Community Development

The Lee County Department of Community Development (as used herein the "Department of Community Development" includes any successor agency serving the same function) will provide advice, information, or other such service upon the request of the Impact Fee Administrator or the Public Works Construction and Design Department and the Public Parks and Recreation Division.

II. DETERMINATION OF PARKS IMPACT FEES

- A. Unincorporated Lee County. The amount of the parks impact fees will be determined by the Impact Fee Administrator, with assistance from the Public Works Construction and Design Department and the Public Parks and Recreation Division when necessary and appropriate. The Impact Fee Administrator will determine the amount of the fees, based on the LDC fee schedules, a fee adjustment, or an independent fee calculation study. Entitlement to exemptions and the calculation of refunds and parks impact fee credits will also be the responsibility of the Impact Fee Administrator.
- B. Participating Municipalities. Participating municipalities have the authority to assess and collect parks impact fees based on the Impact Fee Schedules in the LDC and the list of Miscellaneous Land Uses described in this Code, and to determine exemptions from the parks impact fees as provided in the LDC. Participating municipalities have the authority to undertake any other action regarding fee determinations that is granted to the municipality pursuant to interlocal agreement and not in conflict with the LDC.

C. Determination of Fees Based On Fee Schedules

At the option of the feepayer, the amount of the parks impact fees may be determined by the fee schedules contained in LDC Sections 2-306 and 2-346.

D. Administrative Determination of Fee Without an Independent Fee Calculation Study

At the option of the feepayer, the feepayer may submit a request for a fee adjustment as provided in LDC Sections 2-306 and 2-346 by submitting evidence to the Impact Fee Administrator indicating that the parks impact fees set out in the fee schedules are not applicable to the particular development.

Except for fee adjustments claimed for the provision of on-site recreational facilities, discussed below, the Impact Fee Administrator will determine whether a claim may be adequately assessed through an administrative review of the evidence submitted by the feepayer or if the submission of an independent fee calculation study is necessary. The Impact Fee Administrator may administratively approve a fee adjustment based on the information submitted or require an independent fee calculation study. After appropriate review, the Impact Fee Administrator may adjust the parks impact fees to those appropriate for the particular development.

The Impact Fee Administrator will be guided by a recommendation from the Public Works Construction and Design Department and the Public Parks and Recreation Division, which will recommend parks impact fees by considering demographic or other information available from the Department's studies and plans, the Lee County Department of Community Development, the Bureau of Economic and Business Research of the University of Florida, or other applicable agencies or sources.

It is the feepayer's responsibility to furnish, as required by the Impact Fee Administrator, all materials and information necessary to validate a claim to a fee adjustment up to and including deed covenants. Any claim to a fee adjustment must be submitted prior to the payment of the parks impact fee at issue. Otherwise the claimed fee adjustment is waived.

If the feepayer disagrees with the amount of the administratively determined parks impact fees, the feepayer may prepare and submit an independent fee calculation study in accordance with this Administrative Code and LDC Chapter 2.

E. Community and Regional Parks Impact Fee Adjustments For On-Site Recreational Facilities

At the option of the feepayer, the feepayer may claim a fee adjustment to the Community or Regional Parks Impact Fee based on the provision of on-site private recreational facilities that serve the same purpose and function as set forth in the Lee Plan for Community or Regional Parks. To claim an adjustment, the feepayer must prepare and submit an independent fee calculation study in accordance with LDC Section 2-306 or 2-346 and this Administrative Code.

F. INDEPENDENT FEE CALCULATION STUDIES

1. General

The feepayer must prepare and submit an independent fee calculation study in accordance with this Administrative Code and LDC Section 2-306 or 2-346 if:

- a. The feepayer opts not to follow the fee schedules in the LDC;
- b. The Impact Fee Administrator determines that a feepayer's claim for a fee adjustment cannot be assessed administratively;
- c. The feepayer seeks a fee adjustment to the Community Parks Impact Fee based on the provision of private on-site recreational facilities; or
- d. The feepayer disagrees with the administrative determination of the parks impact fee under Section II.D. above.

Submission of an independent fee calculation study by the feepayer will not exempt the feepayer from paying the parks impact fees prior to the issuance of any building permit, mobile home move-on permit, or recreational vehicle development order as those terms are defined in the LDC.

2. Notice of Intent by Feepayer

The feepayer must inform the Impact Fee Administrator of his intent to submit an independent fee calculation study before the issuance of the permits described in subsection II.F.1. The Impact Fee Administrator will then schedule a pre-application meeting with the feepayer.

3. Pre-Application Meeting

Before beginning the independent fee calculation study, the feepayer or his representative will attend a pre-application meeting with the Impact Fee Administrator. The purpose of the pre-application meeting is to discuss the procedures for preparation of the independent fee calculation study, the methodology to be employed, and the standards to be met.

The Impact Fee Administrator will prepare a written summary of the results of the pre-application meeting regarding methodology, required forms, documentation or procedures (which may not constitute a waiver of the provision of the Ordinances). The Impact Fee Administrator will send a copy of this summary to the feepayer and the Public Works Construction and Design Department and the Public Parks and Recreation Division. The feepayer must provide written confirmation as to receipt and acceptance of the summary to the Impact Fee Administrator.

If the feepayer wishes to waive the pre-application meeting he must do so in writing. Feepayers who waive the pre-application meeting waive the right to raise methodological or procedural issues regarding the study at a subsequent time.

4. Methodology

- a. The purpose of the independent fee calculation study is to measure the impact of the development on the Lee County parks system and to determine if the proposed land development activity is designed or located so that the occupants of the development will use the parks system and facilities differently than the use patterns projected in the LDC and the Lee Plan.

If the feepayer requests an adjustment of the assessed community parks impact fee to offset construction of on-site private recreational facilities, the study will determine if the private recreational facilities serve the same purposes and functions as those set forth in the Lee Plan for community parks.

- b. The independent fee calculation study must follow the methodologies and formats agreed upon during the pre-application meeting and be in accord with the documentation or methodology required by this Code and the LDC.
- c. The methodology used to prepare the independent fee calculation must be appropriate to the independent fee calculation and must conform to the following specific requirements:

- (1) Park Use

- The feepayer must submit evidence to verify that the projected use of the park by the residents of the proposed development is less than the projected use levels used in establishing the LDC schedules.

- (2) On-Site Recreational Facilities

- The feepayer must submit evidence that the private on-site recreational facilities serve the same purposes and functions as those set forth in the Lee Plan for community parks. No adjustment will be given for the value of the land, or for site development costs, but only for the costs of actually purchasing, installing or constructing the recreational facilities. No adjustment will be given for the provision of recreational facilities that exceeds the county's actual or adopted level of service, whichever is greater, for the type of facility. (For example, if the county provides one outdoor swimming pool per 20,000 residents in its community park system, and the developer is proposing to provide a swimming pool for the 5,000 residents anticipated to reside in the development, only one-fourth of the cost of the swimming pool would be eligible for use in the calculation of the requested adjustment.)

A feepayer is eligible for an adjustment to the applicable Community Parks Impact Fee for the provision of private on-site recreational facilities up to a maximum fee adjustment of 50% of the fee schedule amount. The 50% figure represents the maximum allowable fee adjustment to the community parks impact fee for the subject land use because the on-site recreational facilities are limited to private

use and therefore cannot completely satisfy the Lee Plan goals for the Community Park System.

- d. The independent fee calculation study must be prepared and presented by a qualified professional. The methodology must be consistent with best professional practice and support the central claim of the study. The study must provide all necessary supporting documentation and information. Failure to adhere to best professional practice standards is a basis for rejection of the study.

The feepayer's submission must certify that the study complies with best professional practices.

- e. The feepayer must submit the study to the Impact Fee Administrator who will forward the study to the Public Works Construction and Design Department and the Public Parks and Recreation Division.

5. Sufficient Determination

The Public Works Construction and Design Department and the Public Parks and Recreation Division will review the independent fee calculation study for sufficiency, methodology, technical accuracy, and findings. Thereafter, the Public Works Construction and Design Department and the Public Parks and Recreation Division will make recommendations concerning the appropriate amount of the parks impact fees to the Impact Fee Administrator. The Impact Fee Administrator will have 30 days from the date the study is received to provide written notice to the feepayer of any deficiencies or defects in the study, to approve the study and authorize an appropriate fee adjustment or to reject the conclusions of the study and deny the fee adjustment. This notice must be sent certified mail, return receipt requested. In the event this notice is not given within 30 days, the study will be considered sufficient and the fee adjusted as if the study had been approved. If the study is found defective or deficient the 30 day review period will begin again with the submission of a new or modified study. If the feepayer does not respond to the Impact Fee Administrator regarding a finding of deficiency within 30 days of the date notice of a deficiency is sent, the Impact Fee Administrator will consider the independent fee calculation study withdrawn and all claims to a fee adjustment waived. All permits described in subsection II.F.1. subsequently applied for must be accompanied by the parks impact fees established by the fee schedules.

The 30 day sufficiency review will begin when the Impact Fee Administrator receives and date stamps the independent fee calculation study.

6. Effective Date

Once the Impact Fee Administrator approves the independent fee calculation study and establishes the amount of the impact fee adjustment, the adjusted park impact fee will relate back to the date of the pre-application meeting. Fees paid after the pre-application meeting according to the LDC fee schedule will be adjusted to reflect the fee established by the study. The feepayer will receive a refund for the difference between the LDC fee schedule and the approved fee established by the study. Refunds will be in the form of cash or park impact fee credits, depending on

the original method of payment. There will be no refund of fees paid prior to the pre-application meeting.

If the feepayer waives the pre-application meeting, the adjusted park impact fee will relate back to the date the study is found sufficient for review by the Director.

7. Application for Permit or Development Order

It is the feepayer's responsibility to claim a reduction in parks impact fees on the basis of an approved independent fee calculation study, at the time of application for a building permit, mobile home move-on permit or recreational vehicle development order. No claim to a reduced fee will be accepted in advance of the approval of an independent fee study where one is required. In order to assert a claim for a fee reduction, a feepayer must attend a pre-application meeting with the Impact Fee Administrator to discuss the independent fee calculation study prior to paying the parks impact fees or obtaining the building permit, mobile home move-on permit or recreational vehicle development order. The feepayer must present documentation enabling the staff of the Lee County Department of Community Development - Development Services Division, or the Building Official of a participating municipality to verify this claim. Where the feepayer waived the pre-application meeting, fees paid according to the parks impact fee schedule after the study is found sufficient for review will be adjusted to reflect the fee established by the study.

8. Development of Regional Impact (DRI)

Applicants may use data, studies, or information prepared as part of a DRI submission for the purposes of an independent fee calculation study.

III. METHOD OF PAYMENT

A. Payment Due

1. General. All payments must be made in the following manner:

- a. Unincorporated Lee County. Payment must be made in cash or by personal check, cashier's check, and money orders made payable to the Lee County Board of County Commissioners. All payments must be made at the Offices of the Lee County Department of Community Development - Development Services Division.

At the sole discretion of the Impact Fee Administrator the County may accept payment in escrow of the full amount of parks impact fees attributable to a particular land development activity, or mix of land development activities on a single parcel, by the parks impact fee schedules, in order to allow the issuance of building or other development permits while the County makes a determination on a feepayer's claim to a fee adjustment. The escrow payment will be made as set out above and must be earmarked as escrowed funds within the appropriate parks impact fee trust fund. No escrowed funds will be accepted which are not accompanied by a signed letter agreement, acceptable to the County Attorney's Office, stating the purpose of the escrow and releasing the County from any claim to the

escrowed funds by the feepayer or his successors if the County ultimately denies the feepayer's request for a fee adjustment. The agreement must also set forth the feepayer's understanding that the escrowed payment will support issuance of building or other development permits only if all other requirements of the Lee County regulations have been met. If the County subsequently approves the requested fee adjustment the difference between the amount paid into escrow and the adjusted fee must be returned to the feepayer. If the fee adjustment is denied, the escrowed funds will be released to the County and the feepayer may pursue an appeal of the determination as set out in the ordinances.

- b. Participating Municipality. The feepayer must pay the parks impact fees in a manner acceptable to the governmental agency responsible for the issuance of the permit unless an interlocal agreement provides for payment to Lee County. If so, payment must be made as in (a) above.
- c. Use of Parks Impact Fee Credits. In lieu of cash, up to 100% of the parks impact fees may be paid with credits. The additional fee of up to 3% of the park impact fees to cover the cost of administering the impact fee system must be paid in cash.

B. Invalid Payment.

1. Deficient Payment.

In the event the payment of required parks impact fees subsequently proves to be invalid due to insufficient funds, improper execution, or for any other reason, then the following action will be taken:

- a. No building permit, mobile home move-on permit, or recreational vehicle development order may be issued until the required parks impact fees are paid.
- b. The Impact Fee Administrator or the Building Official in a participating municipality (if the fees were collected by the participating municipality) will, within 30 days of detection of such a deficiency, notify the feepayer, the contractor, and the property owner by certified mail, return receipt requested, that:
 - (1) the parks impact fees are due by valid payment immediately upon receipt of said letter.
 - (2) no permit or Certificate of Occupancy will be issued until the fees are paid in full. If not paid within 15 days of the date the letter is sent, the County/ Municipal building department has the authority to stop all construction on the site until payment in full is received.
- c. The amount due will be the amount of the parks impact fees due plus the amount charged by the bank for the dishonored payment plus, pursuant to Section 68.065, Florida Statutes, a service charge of \$20.00, or five percent (5%) of the face amount of the check, whichever is greater.

2. Payment of Fee Based on Error or Misrepresentation. If the parks impact fees have been calculated and paid based on error or misrepresentation, they will be recalculated and any difference refunded to the original feepayer or paid to the County or municipality if appropriate by the original feepayer, whichever is applicable. If parks impact fees are owed to the County, no participating municipality or County permits of any type may be issued for the building or structure in question, or for any other part of a development, of which the building or structure in question is a part, while the fees remain unpaid, and the Impact Fee Administrator may bring any action permitted by law or equity to collect the unpaid fees.

If parks impact fees are owed to the County, then the following action must be taken:

- a. No building or construction permits or Certificate of Occupancy (C.O.) may be issued until the required parks impact fees are paid.
- b. The Impact Fee Administrator or the designated Administrator in a participating municipality, will, within 30 days of detecting such a deficiency, notify the feepayer, the contractor, and the property owner by certified mail, return receipt requested, that:
 - (1) an additional parks impact fee amount is due immediately upon receipt of said letter;
 - (2) a permit or C.O. will not be issued until the amount is paid and if not paid within 15 days, the County/Municipal building department has the authority to stop all construction on the site of said building permit until the payment is received.
- c. Prior to the expiration of one year from the date a final Certificate of Occupancy is issued for which the required parks impact fees have not been paid, or have not been paid in full, the County will, where authorized by the applicable County ordinances, has the authority to file a lien against the real property until the required parks impact fees, together with additional charges allowed by such applicable County ordinances, have been paid.

If the amount of parks impact fees paid exceeded the amount which should have been paid, then the following action is to be taken:

- (1) the Impact Fee Administrator or the Building Official in a participating municipality must, within 30 days of detection of such an overpayment notify the original feepayer by certified mail, return receipt requested, that the feepayer is owed a refund. The appropriate refund form(s) must be included with this notice.
- (2) The feepayer must then submit a written request for refund to the Impact Fee Administrator or Building Official. Upon receipt of the written request, the refund must be issued.

IV. CREDITS

A. Administrative Responsibility

In all cases, the Impact Fee Administrator will make the final determination concerning the issuance of parks impact fee credits based upon the recommendations of the Public Works Construction and Design Department and the Public Parks and Recreation Division.

B. General Conditions

Generally, a feepayer may obtain credit for up to 100% of parks impact fees otherwise due or to become due by offering to dedicate land and/or construct improvements for approved parks. Any claim for credit must be made no later than the time of application for a building permit, mobile home move-on permit, or recreational vehicle development order.

The right to determine whether the value of the capital improvement will be approved for credit purposes lies exclusively with Lee County, unless otherwise provided in an appropriate interlocal agreement, or unless the improvement is required under a participating municipal, state, or County development or zoning approval. In the latter case, credits must be given to the extent required by law. In every case, park impact fee credits shall be calculated so as to be consistent with Section 380.06(16) (1987), Florida Statutes.

C. General Documentation and Procedures

The offer to make capital improvements or dedicate land in exchange for the issuance of parks impact fee credits must be made in an application to the Impact Fee Administrator identifying the capital improvements and/or land dedications for which credits are requested. The Impact Fee Administrator must forward this application to the County Administrator.

1. Documentation. A feepayer requesting the issuance of parks impact fee credits for eligible capital improvements and/or land dedication must provide the following information to the Impact Fee Administrator during development review or prior to application for the issuance of building permits:
 - a. Construction of Capital Improvements. The feepayer must submit a project description in sufficient detail and with complete engineering and construction cost estimates, prepared by qualified professionals, to allow the Impact Fee Administrator to verify these cost estimates.
 - b. Land Dedication. When a person requests credit for land dedication for approved parks, the person must present:
 - (1) a specimen of the deed that will be used to convey title to the appropriate governmental body;
 - (2) a survey of the land to be dedicated certified by a Professional Land Surveyor or Registered Land Surveyor, licensed in the State of Florida;

- (3) an ALTA form B title insurance policy, in an amount equal to the approved value of the credits to be issued, from a company satisfactory to the County Attorney and verifying that the proffered deed will convey unencumbered fee simple title to the appropriate governmental body;
- (4) a document from the Lee County Tax Collector stating the current status of the property taxes; and
- (5) property appraisals prepared by qualified professionals. In preparing their reports, appraisers must value the land in the following manner: (a) if the land in question is subject to a valid agreement, zoning approval, or development order prescribing a valuation, the agreement, zoning approval or development order will control; (b) if the dedication is made pursuant to a condition of zoning approval, is not a site-related improvement, and the zoning condition does not specifically prescribe otherwise, the land will be based upon the zoning of the land as it existed prior to the zoning approval containing the condition of dedication; (c) otherwise, appraisers must value the land as its then current zoning and without any enhanced value which could be attributed to improvements on adjacent lands.
- (6) An affidavit of interest in real property consistent with Florida Statutes section 286.23. The affidavit must certify to Lee County the name and address of every person having a beneficial interest in the real property, however small or minimal. The disclosure affidavit must specifically identify the property to be conveyed and be sworn before a notary.

2. Sufficiency. The Impact Fee Administrator must review the engineering and cost estimates and make a determination of sufficiency.

The survey and property appraisals must be submitted by the Impact Fee Administrator to the Office of County Lands for review and approval by the County's Review Appraisers. In order to be eligible for credits, improvements or land dedications must meet the following standards in addition to those enumerated in the Ordinances:

- a. The proposed dedication or construction must be related to the mitigation of impacts from the development.
- b. The same guidelines which apply to the use of parks impact fee funds limit those parks improvements which are eligible for credits.

3. Determination of Credit. The Impact Fee Administrator and the Public Works Construction and Design Department and the Public Parks and Recreation Division will prepare a recommendation of the amount of the parks impact fees credit appropriate for construction and dedications to the Impact Fee Administrator. This recommendation may be based upon either the cost estimates provided by the applicant or upon alternative engineering criteria, construction cost estimates, or property appraisals through the use of the methodology described in LDC Sections 2-312(b) and 2-352(b), if the Impact Fee Administrator determines that such

estimates submitted by the applicant are either unreliable or inaccurate. The Impact Fee Administrator must provide a written recommendation as to which capital improvements or land dedications are eligible for credits and what the amount of the credit will be for each.

The determination of the amount of credit will be made by the Impact Fee Administrator, taking into consideration the recommendations of the Public Works Construction and Design Department and the Public Parks and Recreation Division. Copies of the written determination will be sent to the feepayer and the Public Works Construction and Design Department and the Public Parks and Recreation Division.

The written determination must include the following: (i) the name of the applicant receiving the credits; (ii) the dollar amount of the credit; (iii) the reason for the credit; and (iv) 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 agreement to the terms of the letter or certificate and return such signed document to the Impact Fee Administrator before credit will be given. If the applicant fails to sign, date, and return such document within 30 days, the Impact Fee Administrator will consider the credit application to be inactive. No increase in the amount of approved credit will be authorized unless it is determined during actual construction of the agreed-to park improvements that change orders are to be made incurring additional expense for items that are necessary and are not shown on the approved plans and estimates previously furnished to the County Administrator. It will be the feepayer's responsibility to obtain prior approval from the Impact Fee Administrator before all such change orders are made. All claims for an increase of the approved credit must include all documentation required by the Parks Director. The Impact Fee Administrator must immediately forward all approved requests for a change in the amount of credit to the Public Works Construction and Design Department and the Public Parks and Recreation Division.

4. Credit for Construction. Except as provided in subsection 4.c below, parks impact fee credits may be issued only after:
 - a. the construction is completed and accepted by the County, or a participating municipality, whichever is applicable;
 - b. a suitable maintenance and warranty bond as may be required by the Impact Fee Administrator is submitted to and approved by the Clerk of Courts of Lee County; or in the case of 4.c below, upon completion of the agreed-to construction improvements and upon acceptance by the appropriate governmental authority pursuant to 4.a above, the Bond may, as required by the Impact Fee Administrator, be reduced to a suitable amount and time period to cover a maintenance period for the improvements.
 - c. Credit may be provided before completion of specified park improvements if the feepayer posts security as provided above for the costs of such construction. In the event that: (1) the County receives notification from the principal (grantor) that the bond is being canceled before all agreed-to improvements have been completed and accepted by the appropriate governmental body; or (2) the County determines that terms of the agreement for the construction as set forth in the Bond agreement are not

being compiled with, then the County must, in accordance with the Bond agreement, default the Bond and collect the full amount of the Bond to be used for completion of the agreed-to improvements and other expenses. If the cost incurred by the County to complete said improvements exceeds the amount received from the defaulted Bond, the County may seek to recover its loss under the provisions of this Code.

5. Credits for Land Dedication. Park impact fee credits for land dedication may be created when the following procedures have been completed and the title to said land has been accepted by the appropriate governmental body and recorded in the Official Records of the Clerk of Circuit Court in Lee County:
 - a. The delivery to the appropriate governmental body of a deed, with sufficient funds to pay all costs of transferring title including recording.
 - b. The escrow of taxes for the current year, or the payment of said taxes for the year.
 - c. The issuance of a title insurance policy subsequent to recording of the deed and escrow of taxes.
 6. Transferability. Parks Impact Fee Credits created after October 1, 1989 are transferable in form and may be sold, assigned or otherwise conveyed. Acceptable proof of transfer must be submitted to the Division of Codes and Building Services when the credits are used.
- D. Performance Bonds, Letters of Credit, etc. In the event the feepayer has received approval from the Impact Fee Administrator for parks impact fee credits for construction and the credits are provided before completion of the improvements in accordance with this Code, the following requirements must be met:
1. The feepayer must submit to the Impact Fee Administrator, on appropriate forms, a Surety Performance Bond or an automatically renewable, irrevocable Letter of Credit (Cash Performance Bond) (both hereinafter referred to as a Bond), in an amount equal to 110% of the full cost of the agreed-to improvements (excluding right-of-way dedications), and payable to the Lee County Board of County Commissioners.
 2. The bond must be reviewed and approved by the Lee County Attorney's Office prior to acceptance of the bond by the Impact Fee Administrator.
 3. If the park or facility is to be owned by a participating municipality, the County may assign its rights in such security to the municipality if the municipality requests it and the law permits it.
 4. A Letter of Credit, pursuant to subparagraph (1) above, must be automatically renewable unless notice of intent to cancel or not to renew is given to the Impact Fee Administrator not later than 60 days prior to the renewal date. In the event a notice to cancel or of intent not to renew is received, the Impact Fee Administrator is entitled to declare a default and collect the full amount of the Bond. In the event any County has assigned its rights in such security to a municipality, then the appropriate Building Official is responsible for this action.