

**LEE COUNTY ORDINANCE NO. 03-22**

AN ORDINANCE AMENDING THE LEE COUNTY LAND DEVELOPMENT CODE (LDC) TO AMEND CHAPTER 2 (ADMINISTRATION), ARTICLE VI (IMPACT FEES), DIVISION 2 (ROADS IMPACT FEE); AMENDING, PROVIDING FOR OR REMOVING DEFINITIONS AND RULES OF CONSTRUCTION OF "ELDERLY/DISABLED HOUSING," "EXPANSION OF THE CAPACITY OF A ROAD," "HOTEL/MOTEL," "MULTIPLE-FAMILY," AND "MULTIPLE-FAMILY BUILDINGS" (§2-264); AMENDING AND RENUMBERING COMPUTATION OF AMOUNT (§2-266); AMENDING BENEFIT DISTRICTS ESTABLISHED (§2-268); TRUST FUND ACCOUNTS (§2-269); USE OF FUNDS (§2-270); EXEMPTIONS (§2-274); CREDITS (§2-275); AND

AMENDING AND PROVIDING FOR APPENDIX K - ROAD IMPACT FEE DISTRICT DESCRIPTIONS; AND

PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS AND AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Lee County, Florida has adopted a comprehensive Land Development Code; and

WHEREAS, the Board of County Commissioners has the authority to adopt this division pursuant to Article VIII of the Constitution of the State, F.S. Ch. 125 and F.S. §§ 163.3201, 163.3202 and 380.06(16); and

WHEREAS, Goal 24 of the Lee County Comprehensive Land Use Plan (Lee Plan) mandates that the county maintain clear, concise, and enforceable development regulations that fully address on-site and off-site development impacts, yet function in a streamlined manner; and

WHEREAS, the Board initially adopted Roads impact fee regulations and an impact fee schedule on September 16, 1985 based upon the best information available at that time; and

WHEREAS, in 2000, the Board approved Lee County Ordinance No. 00-07, adding a provision to Lee County Land Development Code (LDC) in Chapter 2, Section 2-266(f), requiring the impact fee schedules set forth in therein to be reviewed every three years and updated if necessary; and

WHEREAS, the Board approved a contract with Duncan Associates for the review and updating of Roads Impact Fee rates; and

WHEREAS, the *Road Impact Fee Update, Lee County, Florida*, prepared by Duncan Associates, in association with CRSPE, Inc., dated July 2003, forms the basis of the proposed amendments; and

WHEREAS, the Roads Impact Fee impact fee study generated better and more competent data allowing the use of a sophisticated methodology to determine the impacts of development and to evaluate and establish appropriate impact fees; and

WHEREAS, the Land Development Code Advisory Committee reviewed and approved the proposed amendments to Land Development Code on August 8, 2003; and

WHEREAS, the Executive Regulatory Oversight Committee reviewed the proposed amendments to the Land Development Code on August 13, 2003; and

WHEREAS, the Local Planning Agency reviewed the proposed amendments on August 25, 2003, and found them consistent with the Lee Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA:

**SECTION ONE: AMENDMENT TO LAND DEVELOPMENT CODE CHAPTER 2**

Lee County Land Development Code Chapter 2, Article VI, Division 2 is amended to read as follows with strike through identifying deleted language and underline identifying new language:

**CHAPTER 2**

**ARTICLE VI. IMPACT FEES**

**DIVISION 2. ROADS IMPACT FEE**

**Sec. 2-264. Definitions and rules of construction.**

- (a) **Unchanged**
- (b) The following words, terms and phrases, when used in this division, will have the meanings ascribed to them in this subsection and the latest edition of the Institute of Transportation Engineers (ITE) manual, except where the context clearly indicates a different meaning.

**[Only the following definitions are added or amended. All others are unchanged.]**

Duplex has the same meaning given it in chapter 34.

Elderly/disabled housing means dwelling units qualified to receive Federal assistance through Section 202 (supportive housing for the elderly, authorized under the Housing Act of 1959, Section 210 of the Housing and Community Development Act of 1974, and the National Affordable Housing Act) or Section 811 (supportive housing for persons with disabilities, authorized under the National Affordable Housing Act of 1990, as amended by the Housing and Community Development Act of 1992, the Rescission Act and the American Homeownership and Opportunity Act of 2000) programs.

Expansion of the capacity of a road means all road and intersection capacity enhancements, and includes but is not limited to extensions, widening, intersection improvements; and upgrading signalization and improving pavement conditions.

~~Hotel/motel~~ has the same meaning given it in chapter 34. This category includes timeshare units.

~~Multiple-family~~ means and includes those definitions set forth in chapter 34 for multiple-family building, duplex, townhouse and two-family attached.

Multiple-family building has the same meaning given it in chapter 34.

**Sec. 2-266. Computation of amount.**

- (a) At the option of the feepayer, the amount of the roads impact fee may be determined by the schedule set forth in this subsection. The reference in the schedule to square feet refers to the gross square footage of each floor of a building measured to the exterior walls, and not usable, interior, rentable, noncommon or other forms of net square footage. The reference in the schedule to mobile home/RV park site refers to the number of mobile home or recreational vehicle sites permitted by the applicable final development order.

**ROADS IMPACT FEE SCHEDULE**

Land Use Type (Unit)	Roads Impact Fee Due at 100% of Actual Full Cost
<b>Residential</b>	
Single-family	\$ 2,436 per unit
Multiple-family building, Duplex, Townhouse, Two-family attached	\$ 1,687 per unit
Mobile Home (1)/RV Park Site	\$ 1,221 per unit
Adult Congregate Living Facility (ACLF)	\$ 550 per unit
Hotel/Motel or Timeshare	\$ 1,834 per unit
<b>Retail Commercial</b>	
Retail or Shopping Center (0-99,999 sf)	\$ 3,992 per 1,000 sf
Retail or Shopping Center (100,000-249,999 sf)	\$ 3,869 per 1,000 sf
Retail or Shopping Center (250,000-499,999 sf)	\$ 3,634 per 1,000 sf
Shopping Center (500,000+ sf)	\$ 3,354 per 1,000 sf
Bank	\$ 6,063 per 1,000 sf
Car Wash, Self-Service	\$ 7,749 per stall
Convenience Store w/Gas Sales	\$ 8,715 per 1,000 sf
Golf Course (2)	\$ 711 per acre
Movie Theater	\$ 5,600 per 1,000 sf
Restaurant, Fast Food	\$ 9,886 per 1,000 sf
Restaurant, Standard	\$ 4,905 per 1,000 sf
<b>Office/Institutional</b>	
Office, General (0-99,999 sf)	\$ 2,254 per 1,000 sf
Office, General (100,000+ sf)	\$ 1,918 per 1,000 sf
Office, Medical	\$ 6,334 per 1,000 sf
Hospital	\$ 2,941 per 1,000 sf
Nursing Home	\$ 824 per 1,000 sf
Church	\$ 1,402 per 1,000 sf
Day Care Center	\$ 3,900 per 1,000 sf
Elementary/Secondary School (Private)	\$ 611 per 1,000 sf
<b>Industrial</b>	
Industrial Park or General Industrial	\$ 1,681 per 1,000 sf
Warehouse	\$ 1,198 per 1,000 sf
Mini-Warehouse	\$ 419 per 1,000 sf

<u>Land Use Type</u>	<u>Unit</u>	<u>Roads Impact Fee Due at 100% of Actual Full Cost</u>
<b><u>Residential</u></b>		
<u>Single-family residence</u>	<u>Dwelling Unit</u>	<u>\$ 2,971</u>
<u>Multiple-family building,</u> <u>Duplex, Townhouse,</u> <u>Two-family attached</u>	<u>Dwelling Unit</u>	<u>\$ 2,059</u>
<u>Mobile Home(†)/RV Park</u>	<u>Pad/Park Site</u>	<u>\$ 1,488</u>
<u>Elderly/Disabled Housing</u>	<u>Dwelling Unit</u>	<u>\$ 1,017</u>
<u>Adult Congregate Living</u> <u>Facility (ACLF)</u>	<u>Dwelling Unit</u>	<u>\$ 670</u>
<u>Hotel/Motel or Timeshare</u>	<u>Room/Unit</u>	<u>\$ 2,237</u>
<b><u>Retail Commercial</u></b>		
<u>Shopping Center</u>	<u>1,000 sq. ft.</u>	<u>\$ 5,063</u>
<u>Bank</u>	<u>1,000 sq. ft.</u>	<u>\$ 8,038</u>
<u>Car Wash, Self-Service</u>	<u>Stall</u>	<u>\$ 1,683</u>
<u>Convenience Store w/Gas Sales</u>	<u>1,000 sq. ft.</u>	<u>\$11,250</u>
<u>Golf Course (open to public) (2)</u>	<u>Acre</u>	<u>\$ 862</u>
<u>Movie Theater</u>	<u>1,000 sq. ft.</u>	<u>\$ 7,427</u>
<u>Restaurant, Standard</u>	<u>1,000 sq. ft.</u>	<u>\$ 6,504</u>
<u>Restaurant, Fast Food</u>	<u>1,000 sq. ft.</u>	<u>\$12,763</u>
<b><u>Office/Institutional</u></b>		
<u>Office, General</u>	<u>1,000 sq. ft.</u>	<u>\$ 2,336</u>
<u>Office, Medical</u>	<u>1,000 sq. ft.</u>	<u>\$ 7,716</u>
<u>Hospital</u>	<u>1,000 sq. ft.</u>	<u>\$ 3,582</u>
<u>Nursing Home</u>	<u>1,000 sq. ft.</u>	<u>\$ 1,004</u>
<u>Church</u>	<u>1,000 sq. ft.</u>	<u>\$ 1,467</u>
<u>Day Care Center</u>	<u>1,000 sq. ft.</u>	<u>\$ 4,107</u>
<u>Elementary/Secondary</u> <u>School (Private)</u>	<u>1,000 sq. ft.</u>	<u>\$ 643</u>
<b><u>Industrial</u></b>		
<u>Industrial Park</u> <u>or General Industrial</u>	<u>1,000 sq. ft.</u>	<u>\$ 2,050</u>
<u>Warehouse</u>	<u>1,000 sq. ft.</u>	<u>\$ 1,461</u>
<u>Mini-Warehouse</u>	<u>1,000 sq. ft.</u>	<u>\$ 508</u>

Notes:

- (1) Mobile homes not located within an established mobile home park will be treated as a single-family residence for impact fee calculation purposes.
- (2) Impact fees for the a golf course (i.e., tees, fairways, greens, accessory structures such as golf cart houses etc) are due and payable prior to the issuance of the development order for the golf course. The golf course club house and related club house facilities will not be included in the impact fee calculation for the golf course. Impact fees for the club house and related facilities will be calculated separately, at the time of building permit issuance for these facilities, based upon the uses encompassed by the club house facility.

~~Note: The fee schedule in effect prior to July 2000 will be deleted from the LDC. As of July 1, 2000 this predecessor fee schedule will no longer be of any force or effect, except as to determining fees for building permits issued prior to July 1, 2000 or as otherwise indicated below. Building permit (or golf course or RV Park development order) applications submitted on or before June 30, 2000 will be assessed road impact fees based upon the fee schedule applicable on June 30, 2000, if the building permit (or golf course or RV Park development order) is issued on or before August 31, 2000. Building permit (or golf course or RV Park development order) applications submitted on or after July 1, 2000 will be subject to the amended roads impact fee schedule. All permits, and golf course or RV park development orders, issued on or after September 1, 2000 will be assessed in accordance with the amended roads impact fee schedule, regardless of when the application was submitted to the County.~~

(3) Under this Article, impact fees become due and payable at the time of building permit issuance. For purposes of this code, a building permit is considered "issued" when the permit meets all of the following criteria:

~~(1)~~ a. the permit is approved by the County;

~~(2)~~ b. has been picked up by the owner or his agent; and

~~(3)~~ c. all applicable fees have been paid.

[Also, NOTE: The development order process is separate and distinct from the building permit process and not relevant with respect to establishing when impact fees become due and payable, except as to golf courses and RV parks.]

(4) If a building permit is requested for a building with mixed uses, as defined in section 2-264, then the fee will be determined according to the schedule set out in this subsection by apportioning the total space within the building according to the space devoted to each principal use. ~~However, a shopping center will be considered a principal use; however, when located within a shopping center, a fast-food restaurant or convenience store with gasoline sales will be considered a principal use.~~

(b) If the type of development activity for which a building permit is applied is not specified on the fee schedule set out in this subsection, the county manager will use the fee applicable to the most nearly comparable type of land use on the fee schedule set out in this subsection. The county manager will be guided in the selection of a comparable type by the Institute of Transportation Engineers' "Trip Generation, ~~An Informational Report~~" (latest edition), studies or reports done by the United States Department of Transportation, the state department of transportation and the county department of transportation, ~~and~~ articles or reports appearing in the ITE Journal and other reliable sources. If the county manager determines that there is no comparable type of land use on the fee schedule set out in this subsection, then the county manager must determine the fee by: (1) using traffic generation statistics or other relevant data from the sources named in this subsection; and (2) applying the formula set forth in subsection (d~~f~~) of this section.

(bc) The fee schedules set forth in section 2-266 were amended in October 2003. The fee schedule in effect prior to November 3, 2003 will remain in effect until the new fees take effect as follows:

(1) Decreases. Decreases in the existing fee for a use type will be effective November 3, 2003.

(2) Increases.

a. A building permit or mobile home move-on permit or recreational vehicle park development order application submitted on or before December 3, 2003, will be assessed an impact fee based upon the fee schedule applicable on November 2, 2003, but only if the building permit or mobile home move-on permit or recreational vehicle park development order is issued on or before March 3, 2004.

b. A building permit or mobile home move-on permit or recreational vehicle park development order application submitted after December 3, 2003, or any building permit or mobile home move-on permit or development order issued after March 3, 2004, will be subject to the amended impact fee schedule.

c. The Director may accept payment according to the fee schedule in effect prior to November 3, 2003 only if the following conditions are met. The Director's decision is not subject to appeal under §34-145 of this code.

1. The application for the permit or development order must have been properly submitted and sufficient for review on or before December 3, 2003; and,

2. The sole grounds for accepting payment under this subsection will be that a governmental action or failure to act in a timely manner caused the issuance of the permit or development order to be delayed beyond March 3, 2004; and,

3. The applicant submits a written request to the Director specifying the reasons for the request; and,

4. The Director's decision must be in writing and it must set forth the governmental action or failure to act that caused unnecessary delay in the issuance of the permit or development order; and,

5. The ability and authority to accept such payments will terminate on May 2, 2004.

(bd) When change of use, redevelopment or modification of an existing use requires the issuance of a building permit, mobile home move-on permit or recreational vehicle development order, the roads impact fee will be based upon the net increase in the impact fee for the new use as compared to the previous use. However, no impact fee refund or credit will be granted if a net decrease results.

- (ee) If the roads impact fee has been calculated and paid based on error or misrepresentation, it will be recalculated and the difference refunded to the original feepayer or collected by the County, whichever is applicable. If roads impact fees are owed, no participating municipality or county permits of any type may be issued for the building or structure in question, or for any other portion of a development of which the building or structure in question is a part, until impact fees are paid. The building official may bring any action permitted by law or equity to collect unpaid fees.
- (df) If a feepayer opts not to have the impact fee determined according to subsection (a) of this section, then the feepayer must prepare and submit to the county manager an independent fee calculation study for the land development activity for which a building permit, mobile home move-on permit or recreational vehicle development order is sought. The independent fee calculation study must measure the impact of the development in question on the road system illustrated on Map 3A of the transportation element of the Lee Plan by following the prescribed methodologies and formats for the study established by the county administrative code. The feepayer must attend a pre-application meeting with the county manager or his designee to discuss the traffic engineering and economic documentation required to substantiate the request. The traffic engineering and economic documentation submitted must address all aspects of the impact fee formula that the county manager determines to be relevant in defining the project's impacts at the pre-application meeting and must show the basis upon which the independent fee calculation was made, including but not limited to the following:
- (1) Traffic engineering studies. All independent fee calculation studies must address all three of the following:
    - a. Documentation of trip generation rates appropriate for the proposed land development activity;
    - b. Documentation of trip length appropriate for the proposed land development activity; and
    - c. Documentation of the percent of new trip data appropriate for the proposed land development activity.
  - (2) ~~Cost documentation~~ Revenue credit studies. The feepayer may also provide documentation substantiating that the ~~costs to accommodate the impacts of the proposed development, or the revenue credits due to the development;~~ differ from the average figures used in developing the fee schedule. This documentation must be prepared and presented by qualified professionals in their respective fields and must follow best professional practices and methodologies. The following formula must be used by the county manager to determine the roads impact fee per unit of development:

**IMPACT FEE = VMT X NET COST/VMT**

Where:

VMT	=	ADT X % NEW x LENGTH / 2
ADT	=	Trip ends during average weekday
%NEW	=	Percent of trips that are primary, as opposed to passby or diverted-link trips
LENGTH	=	Average length of a trip on the approved road system
/ 2	=	Avoids double-counting trips for origin and destination
<u>ADJUSTMENT</u>	=	<u>Local adjustment factor, representing the ratio between the VMT predicted by national travel characteristics and observed VMT on the approved road system</u>
NET COST/VMT	=	COST/VMT – CREDIT/VMT
COST/VMT	=	COST/LANE-MILE / AVG LANE CAPACITY
COST/LANE-MILE	=	Average cost to add a new lane to the approved roadway system
AVG LANE CAPACITY	=	Average daily capacity of a lane at level of service "D"
CREDIT/VMT	=	\$/GAL / MPG X 365 X NPV
\$/GAL	=	Capacity-expanding funding for roads per gallon of gasoline consumed
MPG	=	Miles per gallon, average for U.S. motor vehicle fleet
365	=	Days per year (used to convert daily VMT to annual VMT)
NPV	=	Net present value factor (i.e., 12.46 for 20 years at 5% discount)

(eg) All buildings, structures and facilities capable of being used by the public will be charged the full roads impact fee set forth for that use in the impact fee schedule. However, the county recognizes that there are instances where a building, structure or facility capable of public use is actually restricted to the private use of a specific development (i.e., private clubhouse dining facilities built as a planned development amenity). In these instances, a reduced impact fee may be claimed by the property owner in accordance with the following:

- (1) Filing of an independent fee calculation study ultimately approved by the County; or
- (2) Acceptance by the developers and property owner, as a condition of building permit or development order approval, that:
  - a. the developer or owner will submit documentation, acceptable to division of development service, that shows the proposed private use will have no off-site road impacts; and
  - b. the proposed use will be restricted to the sole use of the residents of the subdivision by covenants acceptable to the county attorney's office and enforced by a property owner's association or similar entity; and
  - c. the certificate of occupancy will be revoked if the Director of Development Services determines the proposed private use has changed in character to that of a public use and the certificate of occupancy may not be reinstated until the full impact fee is paid; and



- d. the county will withhold all building permits and development approvals for all phases or parts of the development connected with, or entitled to use, the proposed private facility until the full impact fee is paid.
- (fh) The impact fee schedule set forth in section 2-266(a) will be administratively reviewed and re-analyzed every three years. As a result of this review, county staff is authorized and directed to pursue amendments to the impact fee schedule supported by the review and re-analysis. In accordance with this section, the first review of the roads impact fee schedule must be completed and any amendments to the schedule presented to the Board for adoption no later than May 1, 2003. Subsequent review dates will be calculated based upon the May 1, 2003 date.

**Sec. 2-268. Benefit districts established.**

- (a) Benefit Districts. There are hereby established eight ~~five~~ roads impact fee benefit districts as shown in Appendix K - Map 1. ~~Subdistricts may be created by interlocal agreement. Impact fees collected and impact fee credits issued prior to November 3, 2003 will be retained in the accounts for the previous eight districts shown in Appendix K - Map 2 and spent within the benefit district from which they were originally collected or issued to benefit.~~
- (b) ~~District boundaries.~~
- (b) Subdistricts may be created by interlocal agreement. Incorporated municipalities constitute sub districts for the purpose of this division. All or a portion of a municipality may be within the established districts set forth in Appendix K-1. Municipal district boundaries will expand and contract as the municipality boundaries are amended in accordance with Florida law.

**Sec. 2-269. Trust fund accounts.**

- (a) There are hereby established eight ~~five~~ roads impact fee trust fund accounts, one for each roads impact fee benefit district established in section 2-268. Subsidiary accounts may be established for subdistricts created by interlocal agreement.
- (b) **Unchanged**

**Sec. 2-270. Use of funds.**

- (a) Funds collected from roads impact fees must be used for the purpose of capital improvements to approved roads. Such improvements must be of the type made necessary by the new development. Funds may not be used for periodic or routine maintenance as defined in F.S. §334.03(1519) and (2024). Except as provided in subsection (c) of this section, impact fee collections, including any interest earned thereon, ~~less but excluding administrative costs retained charges~~ pursuant to subsection (d) of this section, must be used exclusively for capital improvements within the roads impact fee district from which funds were collected, or for projects in other roads impact fee districts that are of direct benefit to the roads impact fee district from which the funds were collected. These impact fee funds must be segregated from other funds and expended as provided in the appropriate administrative code. Funds may be used or pledged in the course of bonding or other lawful financing techniques, so long as the proceeds raised thereby are used for the purpose of capital improvements to approved roads. If these funds or pledge of funds are combined with other revenue sources in a dual or multipurpose bond issue or other

revenue-raising device, the proceeds raised thereby must be divided and segregated, such that the amount of the proceeds reserved for road purposes bears the same ratio to the total funds collected that the roads impact fee funds used or pledged bear to the total funds used or pledged.

**(b) through (d) Unchanged**

**Sec. 2-274. Exemptions.**

(a) The following are exempt from payment of the roads impact fee:

**(1) through (10) Unchanged**

(11) Building permits issued in a redevelopment area or enterprise zone, or for low- or moderate-income housing, in the City of Fort Myers, but only when the permit is identified by the type of land use and by the land area or housing or redevelopment program in question by explicit language included in an appropriate inter-local agreement. ~~is deemed waived by the feepayer.~~

**(b) Unchanged**

**Sec. 2-275. Credits.**

(a) Credits are subject to the following:

**(1) & (2) Unchanged**

(3) *Conditions of credit approval.* Credit for road construction or land dedication is subject to the following:

a. *Road construction.* A request submitted for road impact fee construction credits must include a detailed project description and complete cost estimates, prepared by a qualified professional, sufficient to enable the county manager to verify the cost estimates and determine the appropriate credit amount. The county manager retains the right to secure other engineering and construction cost estimates ~~meeting the fee methodology set forth in section 2-266(d)~~ in order to independently determine the credit amount to recommend or approve.

1. *Class 1 roads.* The county manager may approve roads impact fee credits for construction costs applicable to class 1 roads. This includes roads required to be constructed pursuant to a zoning condition or development order approval. Construction credits for class 1 roads will be given for the full actual cost of construction, as determined and verified by the county manager.

2. *Class 2 or 3 roads.* In the case of class 2 and 3 roads the county manager will make a recommendation to the board of county commissioners on the appropriate amount of credits.

3. Construction credits for class 2 and class 3 roads may be given at the discretion of the board of county commissioners on a case-by-case basis if the board finds that:

~~(1)~~ a. the construction will not increase public infrastructure costs to serve the new development, and

~~(2)~~ b. the grant of credits will not significantly affect future roads impact fee collections within the roads impact fee benefit district in which the credit is created.

4. The amount of credit approved by the board is limited to the actual verified costs of construction and may be reduced by the percentage that the new road's total capacity is expected to be utilized by local traffic from future development on adjacent lands owned or controlled by the grantor. This amount may be further reduced, at the board's discretion, to reflect the county Department of Transportation's estimate of the value of the accelerated construction of the road in relation to the county's schedule of planned road construction.

b. *Land dedication.* The following documents must be submitted to support an application for road impact fee credits applicable to land dedication for approved roads:

1. A signed and sealed ALTA survey prepared by a licensed Professional Surveyor and Mapper and certified to the county, encompassing the land to be dedicated to the county and covered by the title insurance policy;

2. A specimen of the deed that will be used to convey title to the appropriate governmental body;

3. An ALTA Form B title insurance policy in an amount equal to the approved value of the credits, to be issued by 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. Property appraisals prepared by qualified professionals that appraise the road as part of the whole development of regional impact, planned development or parent parcel; and

5. A document from the tax collector stating the current status of the property taxes.

These submittals will be reviewed by the county manager in making the decision to approve credits or to make a recommendation to the Board of County Commissioners.

Except where a dedication is made pursuant to a condition of zoning approval or development of regional impact development order, the appraiser must value the land at its current zoning without any enhanced value that could be attributed to improvements on the parent parcel. If the land in question is subject to a valid agreement, zoning approval or development order prescribing a different valuation, that document will control the date of valuation. If the dedication is made pursuant to a condition of zoning or other development approval and is not a site-related improvement and the condition does not specifically prescribe otherwise, then the land value will be based upon the value of the land as it existed prior to the approval containing the condition of dedication. The county manager retains the right to independently determine the amount of credit to be approved or recommended by securing other property appraisals for right-of-way dedications using the methodology described in section 2-266(d).

Credit for dedication of right-of-way will be limited to the minimum amount of right-of-way needed by Lee County DOT. Credit for class 1 and class 2 roads will be given for the full value of the land in question, as determined by the methodology and procedures set out in this subsection. Credit for dedication of right-of-way for class 3 roads may be given by the Board of County Commissioners on a case-by-case basis if the board finds that: (1) the dedication will not increase public infrastructure costs to serve the new development, and (2) the granting of credits will not significantly affect future roads impact fee collections within the roads impact fee benefit district in which the credit is created.

The amount of credit approved by the board is limited to the value of the land in question, as determined by the methodology and procedures set out in this subsection, and may be reduced by the percentage the capacity of the road in question is reasonably expected to be utilized by local traffic from future development on adjacent lands owned or controlled by the grantor. This amount may be further reduced, at the board's discretion, to reflect the board's estimate of the value of the accelerated acquisition of the road in relation to the county's schedule of planned road construction. In every case, roads impact fee credits must be calculated consistent with F.S. § 380.06(16).

- c. *Impact fee credit application requirement waiver.* The County Attorney's office, with the prior approval of DOT, may waive one or more of the impact fee credit application requirement if the requirement is clearly not necessary to protect a county interest. A waiver granted by the County Attorney's office must be in writing, addressed to the applicant, with a copy to DOT.

**(4) through (8)      Unchanged**

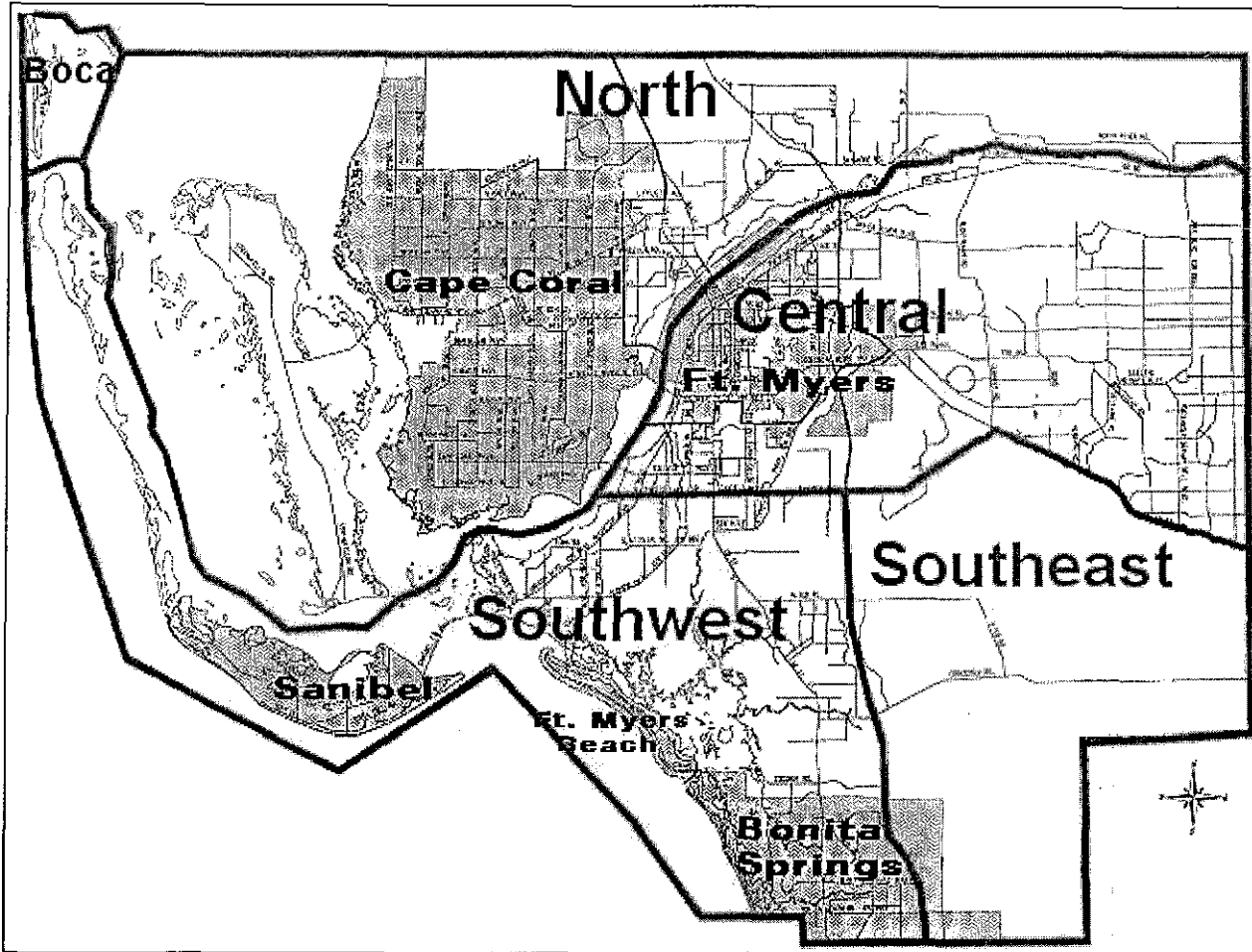
**(b) through (f)      Unchanged**

**SECTION TWO: AMENDMENT TO LAND DEVELOPMENT CODE APPENDIX**

Lee County Land Development Code Appendix K is amended to read as follows with strike through identifying deleted language and underline identifying additional language:

**APPENDIX K ROAD IMPACT FEE DISTRICT DESCRIPTIONS**

APPENDIX K - MAP 1



APPENDIX K - MAP 1 - DISTRICT DESCRIPTIONS

Central District. Bounded on the north and west by the Okeechobee Waterway; on the south by Cypress Lake Drive, Daniels Parkway and SR 8; and on the east by the Hendry County line.

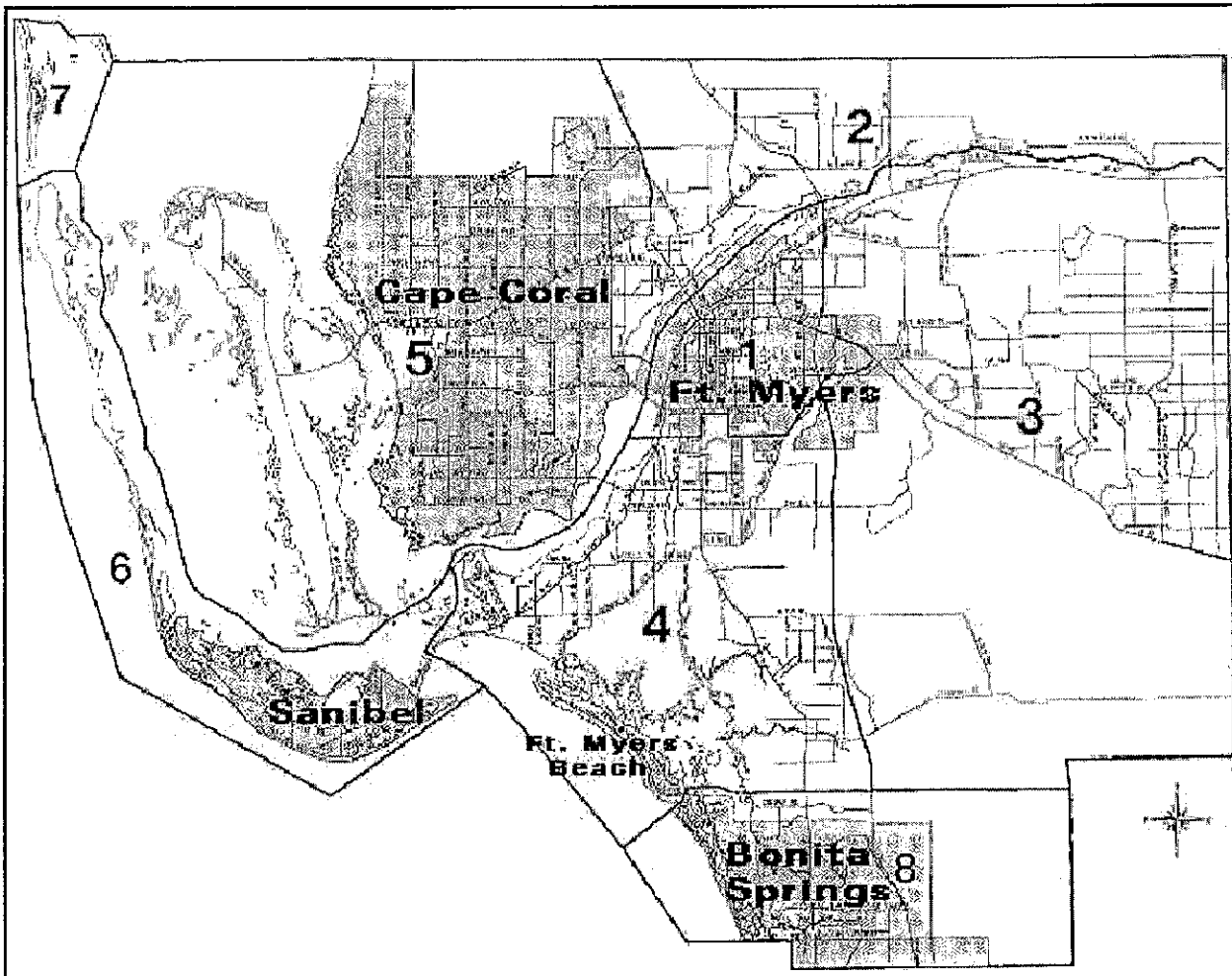
Southeast District. Bounded on the west by Interstate 75 (I-75); on the north by the Central District; on the east by the Hendry County line and the Collier County line; and on the south by the Collier County line.

Southwest District. Bounded on the east by I-75; on the south by Collier County line; on the west by the Gulf of Mexico; and on the north by the navigational channel into Boca Grande Pass, the Intracoastal Waterway within Pine Island Sound and San Carlos Bay, the Okeechobee Waterway, and the southern boundary of the Central District.

North District. Bounded on the north by Charlotte Harbor and the Charlotte County line; on the east by the Hendry County line; on the south by the Intracoastal Waterway within San Carlos Bay and the Okeechobee Waterway; and on the west by the Intracoastal Waterway within Pine Island Sound and Charlotte Harbor.

Boca District. Represents Gasparilla Island bounded by the Charlotte County line on the north, on the east by the Intracoastal Waterway within Charlotte Harbor from the Charlotte County Line to Boca Grande Pass including Cayo Pelau, on the south by the main navigational channel into Boca Grande Pass, and on the west by the Gulf of Mexico from Boca Grande Pass to the Charlotte County Line.

**APPENDIX K - MAP 2**



## **APPENDIX K - MAP 2 - DISTRICT DESCRIPTIONS**

*District 1.* Bounded on the north and west by the Okeechobee Waterway (located within the bounds of the Caloosahatchee River); including Lofton's Island. The eastern and southern borders follow I-75 from the Okeechobee Waterway south to the northern section line of Section 22, Township 44, Range 25, then east along said section line to the northeast corner of Section 23, Township 44, Range 25, then south along said section line to the Buckingham Road ROW (SR 82A), then west along said ROW to its intersection with the State Road 82 ROW, then southeast along said ROW to the intersection of the proposed State Road 884 ROW extension, follow the SR 884 ROW extension to its intersection with the western boundary of the Six Mile Cypress Slough and the City of Fort Myers city limits, then following the city limits line southwesterly to its intersection with Six Mile Cypress Parkway, continue southwesterly along the Six Mile Cypress Parkway to the southern section lines of Section 4, Township 45, Range 25, then west along the southern sections 4, 5, and 6, Township 45, Range 25 to the southwest corner of Section 6, Township 45, Range 25, then north along the western section line of Section 6, Township 45, Range 25 to the City of Fort Myers city limits, then follow the Fort Myers city limits to the southern section line of Section 2, Township 45, Range 24, then west along the southern section lines of Sections 2 and 3, Township 45, Range 24 to the Okeechobee Waterway.

*District 2.* Bounded on the north by the Charlotte County line, and on the east by the Hendry County line. The southern boundary is the Okeechobee Waterway beginning in the west at the Cape Coral/North Fort Myers line, then following the waterway east to the Hendry County line. The western border of District 2 follows U.S. 41 south from the Charlotte county line to Littleton Road, runs west on Littleton Road to 24th Street and south along 24th Street to the Cape Coral/North Fort Myers city boundary to the Okeechobee Waterway.

*District 3.* Bounded on the north by the Okeechobee Waterway east of the Hendry County line, and on the east by the Hendry County Line, on the south by the northern boundary of District 8, and on the west by I-75 from the northern boundary of District 8 to the intersection of the District 1 border and I-75, then follow the eastern border of District 1 to the Okeechobee Waterway.

*District 4.* Bounded on the north, between the Okeechobee Waterway and I-75, by the southern boundary of District 1, on the east by I-75 from the intersection of the southern District 1 boundary and I-75 to the north boundary of District 8. Bounded on the south by the District 8 boundary, and on the west by the Gulf of Mexico from I-75, west to the main navigational channel entering San Carlos Bay, then following that channel to channel marker 101, then turning northeast following the Okeechobee Waterway to meet the southern boundary of District 1.

*District 5.* Represents the city of Cape Coral, Pine Island, Matlacha and is bounded on the north by Charlotte Harbor and the Charlotte County line, on the East by the western boundary of District 2 and the Okeechobee Waterway, on the south by the Intracoastal Waterway within San Carlos Bay, and on the west by the Intracoastal Waterway within Pine Island Sound and Charlotte Harbor.

*District 6.* Represents Sanibel, North Captiva and Cayo Costa and is bounded on the north by the navigational channel into Boca Grande Pass, on the east by the Intracoastal Waterway within Pine Sound and San Carlos Bay and western boundary of District 4, and on the south by the Gulf of Mexico, from the western boundary of District 4 to the main navigational channel into Boca Grande Pass.

*District 7.* Represents Gasparilla Island bounded by the Charlotte County line on the north, on the east by the Intracoastal Waterway within Charlotte Harbor from the Charlotte County Line to Boca Grande Pass including Cayo Pelau, on the south by the main navigational channel into Boca Grande Pass, and on the west by the Gulf of Mexico from Boca Grande Pass to the Charlotte County Line.

*District 8.* Bounded on the north by a line defined by the northern section lines of sections 7, 8, 9, 10, 11, and 12 of township 47 south, range 26 east, sections 7, 8, 9, 10, 11, and 12 of township 47 south, range 25 east, then proceeding westerly into Estero Bay, running north of Monkey Joe Key and then southwest through Big Carlos Pass. Bounded on the west by the Gulf of Mexico, and on the south and east by the Collier County Line.

### **SECTION THREE: CONFLICTS OF LAW**

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

### **SECTION FOUR: SEVERABILITY**

It is the Board of County Commissioner's intent that if any section, subsection, clause or provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such portion will be considered a separate provision and will not affect the remaining provisions of this ordinance. The Board of County Commissioners further declares its intent that this ordinance would have been adopted if such invalid or unconstitutional provision was not included.

### **SECTION FIVE: CODIFICATION AND SCRIVENER'S ERRORS**

The Board of County Commissioners intend that this ordinance will be made part of the Lee County Code; and that sections of this ordinance can be renumbered or relettered and that the word "ordinance" can be changed to "section", "article" or some other appropriate word or phrase to accomplish codification, and regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Manager, or his designee, without the need for a public hearing.

### **SECTION SIX: EFFECTIVE DATE**

The ordinance will take effect on November 3, 2003.



THE FOREGOING ORDINANCE was offered by Commissioner Douglas R. St. Cerny, who moved its adoption. The motion was seconded by Commissioner John E. Albion and, being put to a vote, the vote was as follows:

ROBERT P. JANES	Aye
DOUGLAS ST. CERNY	Aye
RAY JUDAH	Aye
ANDREW W. COY	Absent
JOHN E. ALBION	Aye

DULY PASSED AND ADOPTED THIS 28<sup>th</sup> day of October, 2003.

ATTEST:  
CHARLIE GREEN, CLERK

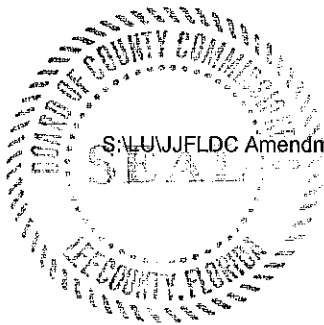
By: *Joe L. Perce*  
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

By: *Ray Judah*  
Chairman

APPROVED AS TO FORM:

By: *John J. Madryna*  
Office of County Attorney



S:\LU\JJFLDC Amendments\Road Impact Fees (Final).wpd JJF



STATE OF FLORIDA  
DEPARTMENT OF STATE

JEB BUSH  
Governor

GLEND A. HOOD  
Secretary of State

November 4, 2003

Honorable Charlie Green  
Clerk of Circuit Court  
Lee County  
Post Office Box 2469  
Ft. Myers, Florida 33902-2469

Attention: Ruth Frymier, Deputy Clerk

Dear Mr. Green:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated October 31, 2003 and certified copy of Lee County Ordinance No. 03-22, which was filed in this office on November 3, 2003.

Sincerely,

Liz Cloud  
Program Administrator

LC/mp

2003 NOV -7 AM 11:09