

ORDINANCE No. 2015-18

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AMENDING THE CITY'S CODE OF ORDINANCES BY AMENDING ARTICLE IV, "TRANSPORTATION," IN CHAPTER 65, "IMPACT FEES," OF THE LAND DEVELOPMENT CODE; ALLOWING FOR THE LATEST VERSION OF THE INSTITUTE OF TRANSPORTATION ENGINEERS TRIP GENERATION PUBLICATION TO BE USED IN IMPACT FEE CALCULATION FORMULA; PROVIDING FOR THE VALUE OF OFF-SITE IMPROVEMENTS TO SERVE A CREDIT TOWARDS THE PAYMENT OF ROAD IMPACT FEES; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR INCORPORATION INTO THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, section 65-73 of the City of Doral's (the "City") Land Development Code provides for the assessment and imposition of "roadway improvement impact fee" for development activity within the City as a means to generate funding for impact-mitigating roadway improvements; and

WHEREAS, section 65-73 provides for the periodic review of the amount of, and manner in which, road impact fees assessed by the City Manager as a way to ensure an appropriate and efficient assessment of fees;

WHEREAS, this Ordinance seeks to provide a mechanism to encourage developers to make roadway improvements outside of the site of a given project in a manner consistent with the City's roadway improvement goals by crediting the value of such off-site improvements towards the payment of a corresponding roadway improvement impact fee; and

WHEREAS, the City Council has reviewed the policy contemplated herein and finds it to be in the best interest of the City and its residents

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Words in underscoring type are additions.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DORAL, FLORIDA:

Section 1. Recitals. The above Recitals are confirmed, adopted, and incorporated herein and made a part hereof by this reference.

Section 2. Code Amended. Article IV, "Transportation," of Chapter 65, "Impact Fees," of the Code of Ordinances of the City of Doral is hereby amended as follows:

CHAPTER 65. IMPACT FEES

ARTICLE IV. TRANSPORTATION

Sec. 65-73. - Roadway improvement impact fee.

* * *

- (b) Rules of construction. The provisions of this chapter shall be liberally construed to effectively carry out its purpose in the interest of the public health, safety and welfare.

* * *

Off-site roadway improvement or off-site improvement means any roadway improvement located outside of the boundaries of a parcel proposed for development or platted subdivision parcel excluding those improvements required to be dedicated or improved pursuant to the subdivision or zoning regulations. This definition also includes roadway improvements, including right-of-way dedication, which are located beyond those zoned right-of-way limits.

Public Works Director means the Director of the City of Doral Public Works Department or his designee.

* * *

- (7) Resurfacing and/or reconstruction of existing roadways including planning and removal of existing paved surfaces where such improvements will enhance the roadway capacity and service level; ~~and~~
- (8) Select transit capital improvements; and

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- (9) Other improvements shown by specific studies to enhance roadway capacity safety and operations.

* * *

(de) *Formula calculation.*

- (1) The fee payer shall pay a roadway improvement impact fee amount based on the formula set forth in this section. The fee shall be collected by the planning and zoning department for all structures for which a building permit is issued. Such fee will be based on the capital cost of roadway improvements required to serve any increase in transportation requirements resulting from proposed development activities together with impact fee administrative costs. The formula to be used to calculate the roadway improvement impact fee shall be as follows:

- a. *Step 1.* Compute total daily trips for the proposed development using the latest ~~available~~ published edition of the Institute of Transportation Engineers (ITE) trip generation handbook using the following Institute of Transportation Engineers land use codes (LUC):

1. *Residential land uses.* For residential land uses, use appropriate trip generation rates per dwelling unit from the latest available version of the Institute of Transportation Engineers (ITE) trip generation (TG) publication to reflect the actual number and type of residential units. Use Institute of Transportation Engineers Trip Generation ~~7~~9th edition (or latest published edition) corresponding land use codes such as: 210, 220—224, 230—233, 240, 251—255, 260 and 270.
2. *Office land use.* For office land uses, use appropriate trip generation rate from the latest available version of Institute of Transportation Engineers trip generation publication to reflect land use in 1,000 square feet area. Use Institute of Transportation Engineers Trip Generation ~~7~~9th edition (or latest published edition) land use code No. 710, general office building.
3. *Industrial and warehouse land use.* For industrial and warehouse land uses, use appropriate trip generation rate from the latest available version of Institute of Transportation Engineers trip generation publication to reflect land use in 1,000 square feet area. Use Institute of Transportation

Engineers Trip Generation 79th edition (or latest published edition) land use code No. 150, warehousing.

4. *Retail land use.* For retail land uses, including, but not limited to, restaurants, pharmacy/drug stores, commercial banks, specialty retail, discount stores, convenience markets, supermarkets, etc. use appropriate trip generation rate from the latest available version of Institute of Transportation Engineers trip generation publication to reflect land use in 1,000 square feet area. Use Institute of Transportation Engineers Trip Generation 79th edition (or latest published edition) land use code No. 820, shopping center.
5. *Houses of worship, churches or synagogues.* For houses of worship, churches or synagogues, use Institute of Transportation Engineers Trip Generation 79th edition (or latest published edition) land use code No. 560, church, weekday trip generation rate per 1,000 square feet of area.
6. *Hotels.* For all hotels use daily trip generation rates per room using Institute of Transportation Engineers Trip Generation 79th edition (or latest published edition) land use code No. 310, hotel.

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(f) Roadway improvement contributions in-lieu-of-fee.

- (1) In lieu of payment of all or part of the road impact fee, the Public Works Director may accept the offer of a fee payer to construct all or part of an off-site roadway improvement in connection with any development activity. All improvement contributions in-lieu-of-fee shall be in accordance with the Comprehensive Plan and the City of Doral's Capital Improvement Program. Such improvement contributions in-lieu-of-fee shall be credited against payment of an impact fee in the amount determined by the Public Works Director pursuant to Subsections (e) or (f). The total amount of contributions in-lieu-of-fee shall not exceed the road cost portion of the impact fee formula in Subsection (e). Improvement contributions in-lieu-of-fee shall not be applied to the five (5) percent City administrative cost portion of the impact fee which shall remain the responsibility of the fee payer and must be paid at the time of building permit issuance.

Where a fee payer seeks to apply an improvement contribution in-lieu-of-fee credit against payment of the road impact fee, the administrative fee portion of the impact fee shall be the sum of: (i) five (5) percent of the value of the improvement contribution in-lieu-of-fee or one thousand dollars (\$1,000.00), whichever is less, and (ii)

five (5) percent of the remaining road cost not satisfied by the improvement contribution in-lieu-of-fee.

Previously approved improvement contributions in-lieu-of-fees that are: (i) unused and (ii) based on a net road cost which has been subsequently adjusted, shall be entitled to an adjustment equal to the percentage increase or decrease of the net road cost in the road impact fee formula. Previously approved improvement contributions in-lieu-of-fees which are: (i) unused and (ii) based on a road cost which has been subsequently adjusted, shall be entitled to an adjustment equal to the percentage increase or decrease of the road cost in the road impact fee formula. Any such adjustment shall only be utilized to offset road impact fees and shall not be refundable.

- (2) An offer by a fee payer to construct road improvement contributions in-lieu-of-fee must be accompanied by plans in sufficient detail to permit the Public Works Director to determine that City, County, or State design standards will be used and to determine the cost of such improvements.
- (3) The Public Works Director may accept or reject an offer of improvement contributions in-lieu-of-fee. When such improvements are not consistent with standards set forth in the impact fee manual the Public Works Director may reject the offer of contributions in-lieu-of-fee. If rejected, the Public Works Director shall state in writing the reasons for the rejection. Any appeal from such a decision of the Public Works Director to reject improvement contributions in-lieu-of-fee shall be reviewed by the City Council.
- (4) If the Public Works Director accepts an offer of improvement contributions in-lieu-of-fee, the fee payer shall post a bond or letter of credit with the Public Works Director equal to one hundred ten (110) percent of the cost of the agreed to improvement as determined by the Public Works Director. Upon receipt of such bond, the City entity may issue building permits for that part of the proposed development determined by the City to be satisfied by the contributions in-lieu-of-fee. Release of such bonds for contributions in-lieu-of-fee shall not be issued by either the City until such contributed improvements have been completed and accepted by the Public Works Director, County, or the State.
- (5) If pursuant to Subsections (g)(1) and (g)(2), the Public Works Director accepts improvements with a cost in excess of the impact fee computed pursuant to Subsections (e) or (f) herein, the fee payer, upon written request, shall be reimbursed for the amount of the excess cost as said cost is determined by the Public Works

Director pursuant to this Subsection (g). It shall be the burden of the fee payer to make a written request for reimbursement at the time of building permit application. The fee payer shall only be eligible for reimbursement after such time as the improvement is completed and accepted by the Public Works Director, County, or the State. Reimbursements shall be made from available monies existing within the corresponding benefit district trust fund. No reimbursement shall be made after six (6) years from the date of first building permit issuance.

- (6) Any provisions for improvement contributions in lieu of road impact fees included as a condition of a development of regional impact development order must be approved by the Public Works Director prior to approval of the final development order for county development orders or subsequently ratified by the Public Works Director in the case of municipal development orders.
- (7) Any off-site improvements required of a development activity in order to meet transportation concurrency requirements shall not qualify as improvement contributions that may be offered by the fee payer and accepted by the City for the purpose of this section. This provision shall not affect development activity subject to a master or other development agreement which specifically identifies off-site improvements.
- (8) Any claim for improvement contributions in lieu of road impact fee shall have been submitted to and received approval from the Public Works Director prior to issuance of any building permit intended to use said contributions in lieu of fee and prior to commencement of any road construction or dedication of any right-of-way for which said contributions in lieu of fee are being claimed.
- (9) Authorized improvement contributions in lieu of fees are not site-transferable and may only be applied against the impact fees due for developments within the parent tract (development property) of the application for which the off-site contributions were made and authorized. Allocations of contributions in lieu of fees to sub-parcels within the parent tract shall be on based on the prorated area (square footage or acreage) unless an alternative allocation or reallocation has been approved by the Public Works Director.
- (10) The fee payer shall pay a nonrefundable administrative cost in the amount set forth in the road impact fee manual to be used by the county for processing and review of the contributions in lieu of fee study. This fee shall not be credited against the amount of road impact fees due.

- (11) Determination of the amount of improvement contributions in lieu of road impact fees to be accepted shall be determined by the Public Works Director based on a review of the documentation provided by the fee payer and current cost information. Any increase in this amount due to changes in construction plans must be authorized in advance by the Public Works Director.
- (12) Previously approved improvement contributions in-lieu-of-fee that have not yet been used may be re-adjusted based on the percentage increase or decrease in the net-road cost as recalculated pursuant to Subsections (e) or (f). Any such adjustment may be applied toward payment of road impact fees but shall not be refundable.

(eh) *Exemptions.*

* * *

- (3) Unless provided for to the contrary in the current effective development order, all development activity which is subject to an existing Development of Regional Impact Development Order adopted pursuant to Chapter 380, Florida Statutes prior to June 4, 1989 shall be exempt from this chapter with regard to development approved by such development order. This exemption provision does not apply to those development orders which may have been revoked or determined to be null and void or to any development not authorized in such development order by the City of Doral or Miami-Dade County. This exemption shall not apply to any additional development regardless of whether or not such additional development constitutes a substantial deviation pursuant to Chapter 380, Florida Statutes. Any Development of Regional Impact development order amended after January 1, 2009, which generates additional vehicular trips above the previously approved development order shall be not be exempt for said additional trips.
- (34) The construction of accessory buildings or structures where the use is not changed, such that an additional impact does not result and the number of total daily trips is not increased, is exempt.
- (45) A building replacement meeting the requirements of Florida Building Code Section 104.3(D) (replacement necessitated by partial destruction) is exempt.

(56) An exemption must be claimed by the fee payer prior to paying the impact fee. Any exemption not so claimed shall be deemed to have been waived by fee payer.

(i) *Roadway improvement impact fee expenditures.*

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(j) *Establishment of a fund.* Roadway improvement impact fees collected pursuant to this section shall be accounted for in a capital outlay impact fee fund to be established by the city. Expenditures from this fund shall be made only as authorized by subsection (f) above.

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Section 3. Implementation. The City Manager, City Clerk, and City Attorney are hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions as may be appropriate by their position to execute the purpose of this Ordinance.

Section 4. Incorporation into the Code. The provisions of this Ordinance, to the extent appropriate, shall become and be made a part of the Code of Ordinances of the City of Doral. The City Clerk is authorized to take all actions necessary to incorporate the provisions of this Ordinance into the Code of Ordinances, including, but not limited to, renumbering or relettering sections and to change and that the word “ordinance” may be changes to “section,” “article,” or such other appropriate word or phrase in order to accomplish such intention.

Section 5. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they

shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 6. **Conflicts.** All ordinances or parts of ordinances, resolution or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

Section 7. **Effective Date.** This Ordinance shall become effective immediately

The foregoing Ordinance was offered by Councilmember Cabrera, who moved its adoption. The motion was seconded by Vice Mayor Ruiz, and upon being put to a vote, the vote was as follows:

Mayor Luigi Boria	Yes
Vice Mayor Sandra Ruiz	Yes
Councilman Pete Cabrera	Yes
Councilwoman Christi Fraga	Yes
Councilwoman Ana Maria Rodriguez	Yes

PASSED AND ADOPTED on FIRST READING THIS 18 day of February 2015.

PASSED AND ADOPTED on SECOND READING THIS 14 day of April 2015.



LUIGI BORIA, MAYOR

ATTEST:



CONNIE DIAZ, CITY CLERK

APPROVED AS TO LEGAL FORM AND SUFFICIENCY
FOR THE SOLE USE AND RELIANCE OF THE CITY OF DORAL



WEISS SEROTA HELFMAN COLE BIERMAN & POPOK, PL
CITY ATTORNEY

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