

ORDINANCE 2024-11

AN ORDINANCE OF THE CITY OF LAKE WALES, FLORIDA; AMENDING THE CODE OF ORDINANCES OF THE CITY OF LAKE WALES, FLORIDA; PROVIDING RECITALS CONSTITUTING LEGISLATIVE FINDINGS AND INTENT; AMENDING CHAPTER 23, ARTICLE VII, DIVISION 4, “PUBLIC FACILITIES IMPACT FEES”; AMENDING SECTION 23-761 RELATING TO DEFINITIONS; AMENDING SECTION 23-770 RELATING TO DEVELOPER CONTRIBUTION CREDIT; PROVIDING FOR A BUSINESS IMPACT ESTIMATE, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

WHEREAS, Section 163.3202(3), Florida Statutes, encourages the use of innovative land development regulations, including the creation of incentive and inclusionary zoning, to implement the goals, objectives and policies of a municipality’s Comprehensive Plan; and,

WHEREAS, Section 163.3180(5)(f), Florida Statutes, encourages local governments (including municipalities such as the City) to develop tools and techniques including reducing impact fees or local access fees to promote development within urban areas, multimodal transportation districts, and a balance of mixed-use development in certain areas or districts, or for affordable or workforce housing; and,

WHEREAS, Section 163.31801, Florida Statutes, authorizes local governments to adopt impact fees; and,

WHEREAS, the City, in its Comprehensive Plan sets out goals, objectives and policies to provide for orderly growth and development; and,

WHEREAS, the City Commission of the City (the “City Commission”) finds that this Ordinance supports and furthers the goals, objectives and policies of the Future Land Use Element of the Comprehensive Plan as follows:

- GOAL I.1. “it shall be the goal of the City of Lake Wales to provide a system for orderly growth and development to ensure that the character, magnitude, and location of all land uses fosters a high quality of life that balances a natural, physical, social, and economic environment that meets the needs of the present and future population;
- Objective I.1.5 “Desired Urban Growth Pattern;
- Policy I.1.5.3. “Promote infill development and redevelopment of urban areas through flexible land use regulations and quick turn-around times for reuse inspections and permit reviews, and financial incentives such as development impact fee exemptions for desirable uses. Land use regulations for redevelopment target areas shall promote affordable housing and make liberal use of the special permit process to allow a wide range of uses without compromising neighborhood integrity and land use compatibility.

WHEREAS, the City has determined that the enactment of this Ordinance adopting a Traditional Neighborhood Development Impact Fee Credit will encourage residential, commercial, and civic development within the City to create social, environmental, and economic benefits; and,

WHEREAS, the City Commission has noticed, advertised, scheduled and held a public hearing in compliance with Florida Statutes on this proposed Ordinance; and,

WHEREAS, the City Commission has determined that it is advisable and in the public interest to adopt and implement the amended Public Facilities Impact Fees Ordinance.

NOW THEREFORE, BE IT ENACTED by the City Commission of the City of Lake Wales, Florida, as follows:

SECTION 1. FINDINGS AND INTENT. The City Commission hereby adopts and incorporates the above stated Recitals as legislative findings that support and form the basis for the adoption of this ordinance. The effect of the amendment contained in this ordinance is to create and adopt a traditional neighborhood development credit impact fee mitigation program.

SECTION 2. AMENDMENT TO SECTION 23-761, CODE OF ORDINANCES OF THE CITY OF LAKE WALES, FLORIDA. That Section 23-761, Division 4, Chapter 23, Zoning, Development, and Land Use Regulation of the Code of Ordinances of the City of Lake Wales, Florida (hereafter “Code”), is hereby amended to read as follows:

Division 4. Public Facilities Impact Fees

“§ 23-761. Definitions.

When used in this division, the following words, terms or phrases shall have the meanings ascribed to them in this section unless the context clearly indicates otherwise:

Affordable housing shall mean a dwelling unit which is offered for sale or rent to low-income persons or very low-income persons and which monthly rent or monthly mortgage payments, including taxes and insurance, do not exceed thirty (30) percent of that amount which represents the percentage of the median adjusted gross income for low-income persons and very low-income persons.

Alternative impact fee shall mean any alternative fee calculated by an applicant and approved by the city manager or city commission pursuant to section 23-765.

Encumbered shall mean monies committed by contract or purchase order in a manner that obligates the city to expend the encumbered amount upon delivery or completion of goods, services or real property provided by a vendor, supplier, contractor or owner.

Fees shall mean, collectively, the impact fees, or successor fees and charges, imposed pursuant to this division and Chapter 21-Utilities.

Impact fee shall mean, collectively, the impact fees, or successor fees and charges, imposed pursuant to this division and Chapter 21-Utilities.

Impact fee study shall mean the study adopted pursuant to section 23-763, as amended and supplemented pursuant to section 23-783.

Infill lot shall mean any single vacant lot located in a predominately built-up area served by city utilities, which is bounded on two (2) or more sides by existing development. In addition, any lot that contains an existing building which will be removed and replaced with a new building shall also be considered an infill lot.

Mixed use construction shall mean construction in which more than one (1) impact fee land use category is contemplated, with each category consisting of a separate and identifiable enterprise not subordinate to or dependent on other enterprises within the construction.

Mobility plan shall mean a plan of multimodal projects that serve as the basis for development of a mobility plan and incorporated in the study adopted pursuant to section 23-763, as amended and supplemented pursuant to section 23-783, or as adopted in the Comprehensive Plan.

Owner shall mean the person holding legal title to the real property upon which public facilities impact construction is to occur.

Person shall mean an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

Public facilities shall mean those facilities identified in this division for which impact fees are imposed.

Public facilities impact construction shall mean land development which changes the use of land in a manner which increases the impact upon the public facilities for which impact fees are imposed under this division.

Qualified Target Industry Business (or Target Sector Business) shall mean a new or expanding business in the areas listed as Target Sectors on the Central Florida Development Council website, which shall have a positive economic and fiscal impact in the City and meets the requirements of Section 288.106(q), Florida Statutes.

Residential shall mean apartments, condominiums, mobile homes or single-family detached houses.

Site-related improvement shall mean any improvement constructed on the development site which is required to connect a building or structure with a city capital facility.

Spec Building shall mean a new commercial construction of 20,000 square feet or more, which is built on speculation that it will be occupied by a Target Sector Business.

Traditional Neighborhood Development (TND) shall mean new or infill development that creates, or contributes to an existing, complete, walkable neighborhood consisting of a mix of uses including residential, commercial, and civic uses and a range of building types such as single detached homes, cottage courts, townhomes, duplexes, rowhouses,

live/work units, corner stores, main street buildings, and the like, each fronting streets and public open spaces, all connected by a fine network of low-speed, tree-lined streets, alleys, and shared-use paths.

SECTION 3. AMENDMENT TO SECTION 23-770, CODE OF ORDINANCES OF THE CITY OF LAKE WALES, FLORIDA. That Section 23-7770, Division 4, Chapter 23, Zoning, Development, and Land Use Regulation of the Code, is hereby amended to read as follows:

“§ 23-770. Developer contribution credit.

- a. The city may grant a credit against the impact fees imposed herein for:
 1. The donation of land or equipment, or the construction of public facilities made pursuant to a development agreement approved in accordance with division 2 of this article. Such donation or construction shall not be site-related improvements and shall be subject to the approval of the city commission.
 2. Certain developments which were impacted by the City’s “Planning in Progress” Resolution 2023-02 for application review.
 3. New development built in accordance with the standards of Ordinance 2024-10 Traditional Neighborhood Development (TND).
- b. Prior to the issuance of a building permit the applicant shall submit to the administrative official a proposed plan and estimates of costs for contributions to the public facilities. If applicable, the proposed plan and estimates should include:
 1. A legal description of any land proposed to be donated and a written appraisal prepared in conformity with paragraph c.5.A. below;
 2. A list of the contemplated public facilities improvements, apparatus or equipment sought to be donated;
 3. An estimate of proposed construction costs certified by a professional architect or engineer;
 4. A written statement of the actual cost for any equipment or apparatus sought to be donated;
 5. Documentation to show that the development aligns with paragraph a.2 or a.3 above; and
 6. A proposed time schedule for completion of the proposed plan.
- c. The administrative official shall review the proposed plan and determine:
 1. If such proposed plan is in conformity with contemplated improvements and additions to the public facilities;
 2. If the proposed donation of land or equipment or proposed construction by the applicant is consistent with the public interest; and
 3. If the proposed time schedule is consistent with the city’s capital improvement program for the public facilities- ;or
 4. Allocation of Impact fee credits should the proposed development plan align with the aspirational requirements of Resolution 2023-02 or Ordinance 2024-10.
 5. The amount of developer contribution credit based upon the following standards of valuation:
 - A. The value of donated land shall be based upon a written appraisal of fair market

value by a qualified and professional appraiser based upon comparable sales of similar property between related parties in the bargaining transaction;

B. The cost of construction of public facilities shall be based upon the lowest of three (3) bids to perform construction in conformity with all construction standards of the city;

C. The value of apparatus and equipment shall be based on the actual cost; and

D. No more than fifty percent (50%) reduction of the applicable impact fees due for development which aligns with Resolution 2023-02;

E. No more than twenty-five percent (25%) reduction of applicable impact fees due for development built in accordance with the standards of Ordinance 2024-10 within Limited Growth Areas.

F. No more than fifty percent (50%) reduction of applicable impact fees due for development built in accordance with the standards of Ordinance 2024-10 within Preservation and Infill Area/Planned Growth Area.

d. Upon presentation of the plan to the city commission and approval of a development agreement pursuant to division 2 of this article, a revised impact fee statement shall be issued to the applicant reflecting the amount of impact fees due following the granting of the credit.

e. Any applicant shall have a right of review pursuant to section 23-772 of the valuation by the administrative official of the developer contribution credit. However, there shall be no right of review as to the determination of the city commission to accept or reject the proposed plan of donation or construction.

f. No credit shall be granted for the donation of land or equipment or for the construction of public facilities unless such donation or construction would be an authorized expenditure for the particular impact fee.

g. The credit granted for the donation of land or equipment for the construction of public facilities by an applicant shall only be applied as a credit against the impact fee which provides the funds for the specific capital facility.

h. Subsequent to processing of the developments which were in progress and impacted by the provisions of Resolution 2023-02 at the time of its adoption, the availability of impact fee credits (in whatever amount may be approved by the City Commission in its sole discretion) shall sunset and no longer be of any force or effect.”

SECTION 4. BUSINESS IMPACT ESTIMATE. Pursuant to Section 166.041(4), Florida Statutes, the City of Lake Wales is required to prepare a business impact estimate for certain proposed ordinances. **This proposed ordinance modifies a previously adopted ordinance related to developer credit contribution. Infill development and redevelopment are recognized by the State and City of Lake Wales to be important for sustaining urban cores. This ordinance will provide incentives to promote desirable development which will foster a high quality of life that balances a natural, physical, social, and economic environment.** It will reduce certain costs for certain businesses. Such ordinance (1) serves a public purpose by serving the public health, safety, morals, and welfare of the City, (2) has no direct negative economic impact on private, for-profit businesses in the city, (3) will not result in direct compliance costs by businesses, (4) does not impose any

new charge or fee or businesses for which businesses will be financially responsible, (5) does not create any additional municipal regulatory cost which is not recovered appropriately and lawfully by the City. Thus, it is estimated that neither residents nor any business will incur additional costs. The City does not seek to impose any additional user or regulatory fees or charges beyond the actual cost of operation and maintenance of the facility, nor are any direct compliance costs expected. The Business Impact Estimate form for this ordinance is on file with the City Clerk.

SECTION 5 SEVERABILITY. If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.

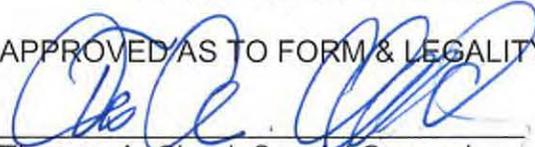
SECTION 6. CONFLICTS. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 7. EFFECTIVE DATE. This ordinance shall take effect in accordance with state law.

CERTIFIED AS TO PASSAGE this 18th day of June, 2024.

By: 
Jack Hilligoss Mayor/Commissioner
City of Lake Wales, FL

ATTEST: _____
Jennifer Nanek, CMC, City Clerk

APPROVED AS TO FORM & LEGALITY:

Thomas A. Cloud, Special Counsel