

Section 1010.04. - Credit against payment of traffic impact fees.

- (1) Any person who shall commence any land development activity generating traffic may apply for a credit against any fee owed pursuant to the provisions of this chapter for any improvement listed on the 20-year Capital Improvement Plan of Indian River County or the 20-year Capital Improvement Plan of any municipality participating in this chapter, including any contribution, payment or construction made pursuant to a development order issued by Indian River County or any participating municipality pursuant to its local development regulation or Section 380.06, Florida Statutes, or any additional development requirement imposed by the Florida Land and Water Adjudicatory Commission on a development of regional impact.
- (2) The credit shall be in an amount equal to the market value of the capital improvement on the date of the contribution, payment, construction or land dedication. No credit shall exceed the fee for the proposed impact generating activity imposed by this chapter, unless a credit (developer's) agreement is completed which provides use of excess credits and stipulates how the excess credits will be applied toward additional lands owned by a developer within the same traffic impact fee benefit district.
- (3) No credit shall be granted for any costs, contribution, payment, construction or land received by Indian River County or any municipality participating in this chapter where such costs were incurred or contributions made in relation to development for which a building permit was issued prior to March 1, 1986.
- (4) No credit shall be granted for any costs, contribution, payment, construction or land received by Indian River County or any municipality participating in this chapter if said costs, contribution, payment, construction or land dedication is received or made before a credit agreement is approved by the county administrator or his designee and is fully executed by all applicable parties. Any claim for credit not so made and approved shall be deemed waived.
- (5) The determination of any credit amount shall be undertaken through the submission of a proposed credit agreement, on an application form provided by the county, to the county director of community development for initial review before submission to the county administrator. Within twenty (20) days of receipt of a proposed credit agreement, the community development director or his designee shall determine if the proposal is complete. If it is determined that the proposed agreement is not complete, the director of community development or his designee shall send a written statement to the applicant outlining the deficiencies. The county shall take no further action on the proposed credit agreement until all application submittal deficiencies have been corrected or otherwise settled.
- (6) Once the proposal is determined to be complete, the county administrator or his designee shall, within thirty (30) days of such a determination, review the proposed agreement, and shall approve said agreement if the provisions and requirements of this chapter are satisfied.
  - (A) No credit shall be given for site-related improvements or site-related right-of-way dedications.
  - (B) Site-related improvements are capital improvements and right-of-way dedications for direct access to and/or within a development. Direct access improvements include, but are not limited to, the following:
    1. Access roads leading to and from the development;
    2. The paving and/or improvement of a thoroughfare plan roadway segment, where such improvement is necessary to provide paved access to and from the project, if the roadway segment is not scheduled to be improved within five (5) years from the time of the credit agreement, as shown on the adopted capital improvements program;
    3. Driveways and roads within the development;
    4. Acceleration and deceleration lanes, and right and left turn lanes leading to those roads and driveways within the development;

5. Traffic control devices (including signs, marking, channelization and signals) for those roads and driveways within the development.
- (C) No credit shall be given for improvements or right-of-way dedications unless such improvement(s) or dedication(s) meets an expansion need of the county's road network system and is identified either in the county's twenty-year transportation capital improvements program or in the transportation capital improvements program of a municipality participating in this chapter.
- (7) All required right-of-way dedications and/or roadway improvements which are compensable and made by a fee payer subsequent to October 9, 1992, shall be creditable against road impact fees otherwise due or to become due for the development that prompted the county or the municipality to require such dedications or roadway improvements. Such credits shall be determined as provided as set forth herein.
  - (8) Credit for the dedication of non-site related right-of-way shall be valued on the date of the dedication at one hundred fifteen (115) percent of the most recent assessed value by the Indian River County property appraiser or, at the option of the fee payer, by fair market value established by an independent private appraisal approved by the county public works department and at no expense to the county. Credit for the dedication of right-of-way shall be provided when a credit agreement has been approved by the county administrator or his designee and when the property has been conveyed at no charge to and accepted by the county or, if appropriate, a municipality participating in this chapter in a manner satisfactory to the governing body to which the dedication is made. As part of the referenced county credit agreement, the applicant shall supply to the county at his or her own expense, the following:
    - (A) A drawing and legal description of the land; and
    - (B) A certificate of title or title search of the land.
  - (9) To receive a credit for construction of non-site related road improvements, an applicant shall submit to the county director of community development a proposed credit agreement application pursuant to this chapter, along with engineering drawings specifications, and construction cost estimates prepared and certified by a duly qualified and licensed Florida Engineer. The county director of community development or his designee will coordinate review and approval of the application with the county public works director. The county public works director shall determine credit for roadway construction based on either these costs estimates or an alternative engineering criterion and construction cost estimate if the county public works director determines that such estimates submitted by the applicant are either unreliable, inaccurate or in excess of normal construction costs for such project.
  - (10) Credit for non-site related construction is limited to capital improvements. A capital improvement includes engineering design studies, land surveys, permitting, and construction of all necessary features for any road construction project including, but not limited to:
    - (A) Construction of new through lanes;
    - (B) Construction of new turn lanes (not related to the project site);
    - (C) Construction of new bridges;
    - (D) Construction of new drainage facilities in conjunction with new roadway construction;
    - (E) Purchase and installation of traffic signalization, including new upgraded signalization and other traffic control devices (not related to the project site);
    - (F) Construction of curbs, medians, and shoulders (not related to the project site); and
    - (G) Relocating utilities to accommodate new roadway construction.
  - (11) In order to maintain the pro rata or proportionate share purpose of the Fair Share Roadway Improvement Ordinance, it is necessary that a uniform method be used countywide in determining credit against fee. Therefore, the county, when considering compensation or credit for road right-of-

way, shall apply the right-of-way standards it has established in the unincorporated areas throughout the entire county. Accordingly, dedication of the minimum local road width (sixty (60) feet with swale; fifty (50) feet with curb and gutter) is non-compensable, thus putting the unincorporated areas and the incorporated areas in the same posture and thereby maintaining the integrity of the pro rata or proportionate share concept.

- (12) Credits shall not be transferable from one project or development to another without the approval of the county administrator or his designee. Credit transfers may be approved only when the project or development where the credits are being transferred from is within the same impact fee district as the project or development where the credits are being transferred to.

(Ord. No. 2005-015, 5-17-05)