

**ORDINANCE NO. 07-25-LC**

**AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA RELATING TO ROAD IMPACT FEES; PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR AN AMENDMENT OF LAND DEVELOPMENT CODE SECTION 19.04.00. ROAD IMPACT FEE; PROVIDING FOR AN AMENDMENT OF LAND DEVELOPMENT CODE SECTION 19.04.01. INTENTS AND PURPOSES; PROVIDING FOR AN AMENDMENT OF LAND DEVELOPMENT CODE SECTION 19.04.03. DEFINITIONS; PROVIDING FOR AN AMENDMENT OF LAND DEVELOPMENT CODE SECTION 19.04.04. IMPOSITION OF ROAD IMPACT FEE; PROVIDING FOR AN AMENDMENT OF LAND DEVELOPMENT CODE SECTION 19.04.05. COMPUTATION OF THE AMOUNT OF THE ROAD IMPACT FEE; PROVIDING FOR AN AMENDMENT OF LAND DEVELOPMENT CODE SECTION 19.04.06. PAYMENT OF FEE; PROVIDING FOR AN AMENDMENT OF LAND DEVELOPMENT CODE SECTION 19.04.07. ROAD IMPACT FEE DISTRICT; PROVIDING FOR AN AMENDMENT OF LAND DEVELOPMENT CODE SECTION 19.04.08. ROAD IMPACT FEE TRUST FUND ESTABLISHED; PROVIDING FOR AN AMENDMENT OF LAND DEVELOPMENT CODE SECTION 19.04.09. USE OF FUNDS; PROVIDING FOR AN AMENDMENT OF LAND DEVELOPMENT CODE SECTION 19.04.10. REFUND OF FEES PAID; PROVIDING FOR AN AMENDMENT OF LAND DEVELOPMENT CODE SECTION 19.04.11. EXEMPTIONS AND CREDITS; PROVIDING FOR AN AMENDMENT OF LAND DEVELOPMENT CODE SECTION 19.03.12. REVIEW; PROVIDING FOR INCORPORATION INTO THE LAND DEVELOPMENT CODE; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DESTIN, FLORIDA:**

**SECTION 1: AUTHORITY.** The authority for the enactment of this Ordinance is Section 1.01 of the City Charter; Chapter 163, Part II, *Florida Statutes*; Sections 166.021 and 166.041, *Florida Statutes*; and the City's Comprehensive Plan.

**SECTION 2: FINDINGS OF FACTS.**

**WHEREAS**, a public hearing has been conducted after "due public notice" by the Destin Planning Commission sitting as the Local Planning Agency with its recommendations reported to the City Council;

**WHEREAS**, a public hearing has been conducted by the City Council after "due public notice";

**WHEREAS**, the transportation fee ordinance provides for periodic review by the City Council;

**WHEREAS**, the review has been conducted and the results are contained in the report entitled "Impact Fee Study for Transportation, Parks, Library and Police Facilities," dated July 2007;

**WHEREAS**, the City Council has determined that the transportation impact fee needs clarification as to whether the “old” impact, the “interim” impact fee, or the “new” impact fee applies to a final development order or development permit;

**WHEREAS**, the City Council has determined that the revisions to the transportation fee are necessary; and

**WHEREAS**, the City Council has determined that this Ordinance is consistent with the adopted Comprehensive Plan and is in the best interests of the City and its citizens.

NOTE: *Language in sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 of this ordinance that is ~~struck through~~ is language proposed to be deleted, underlined language is language proposed to be added, language that is not ~~struck through~~ or underlined is not to be changed, and \* \* \* represents sections of the Land Development Code that have been skipped and remain unchanged.*

**SECTION 3. AMENDMENT OF LAND DEVELOPMENT CODE SECTION 19.04.00. ROAD IMPACT FEE.** Section 19.04.00. *Road Impact Fee* of the Land Development Code is hereby amended as follows:

**19.04.00. Transportation Road Impact Fee.**

**SECTION 4. AMENDMENT OF LAND DEVELOPMENT CODE SECTION 19.04.01. INTENTS AND PURPOSES.** Section 19.04.01. *Intents and Purposes* of the Land Development Code is hereby amended as follows:

19.04.01. *Intents and purposes.*

A. *Legislative findings:*

1. The City Council has determined that the City of Destin must expand its transportation road system in order to maintain current levels of service if new development is to be accommodated without decreasing current levels of service. This must be done in order to promote and protect the public health, safety, and welfare.
2. The City Council has determined that the Florida Legislature through the enactment of Chapter 163, Part II, Florida Statutes, encourages local governments to adopt innovative approaches to development.
3. The City Council has determined that the authority to adopt this ordinance is pursuant to Section 1.01.(b) of the City Charter, and Section 166.021, Florida Statutes.
4. The City Council has determined that the imposition of impact fees is one of the preferred methods of ensuring that development bears a proportionate share of the cost of transportation road capital improvements necessary to accommodate such development. This must be done in order to promote and protect the public health, safety, and welfare.
5. The City Council has determined that each of the types of land development described in section 19.04.05.A., will generate vehicular and pedestrian traffic necessitating the acquisition of rights-of-way, road construction, ~~and~~ road improvements, pedestrian and bicycle improvements.

6. The City Council has determined that the fees established by section 19.04.05.A. are derived from, based upon, and do not exceed the costs of providing additional rights-of-way, ~~road construction,~~ and ~~road~~ multi-modal improvements necessitated by the new land developments for which the fees are levied.
7. The City Council has determined that the report entitled "~~Revised Technical Memorandum on the Methods Used to Calculate Road Impact Fees,~~" dated ~~October 10, 2002~~ "Impact Fee Study for Transportation, Parks, Library and Police Facilities," dated July 2007, sets forth a reasonable methodology and analysis for the determination of the impact of new development on the need for and costs of additional transportation ~~road~~ capital improvements in the City of Destin.

- B. This article is intended to assist in the implementation of the City of Destin Comprehensive Plan.
- C. The purpose of this article is to regulate the development of land so as to ensure that new development bears a proportionate share of the cost of capital expenditures necessary to provide transportation ~~road~~ capital improvements in the City of Destin.
- D. This article shall not apply to development for which the City of Destin is the applicant.

**SECTION 5. AMENDMENT OF LAND DEVELOPMENT CODE SECTION 19.04.03. DEFINITIONS.** Section 19.04.03. *Definitions* of the Land Development Code is hereby amended as follows:

19.04.03. *Definitions.*

- A. "Arterial road" shall have the same meaning as set forth in Section 334.03, Florida Statutes.
- B. "Capital improvement" includes transportation planning, preliminary engineering, engineering design studies, land surveys, right-of-way acquisition, engineering, permitting, and construction of all the necessary features for any transportation ~~road~~ construction project including, but not limited to:
  - (1) Construction of new through lanes;
  - (2) Construction of new turn lanes;
  - (3) Construction of new bridges;
  - (4) Construction of new drainage facilities in conjunction with new roadway construction;
  - (5) Purchase and installation of traffic signalization (including new and upgraded signalization);
  - (6) Construction of curbs, medians, and shoulders; ~~and~~
  - (7) Relocating utilities to accommodate new roadway construction;
  - (8) Pedestrian improvements; and
  - (9) Bikeway facility improvements.

- C. "Collector road" shall have the same meaning as set forth in Section 334.03, Florida Statutes.
- D. "Development order" means a regulatory approval by the City of Destin.
- E. "Expansion" of the capacity of a road applies to all road and intersection capacity enhancements and includes, but is not limited to, extensions, widening, intersection improvements, upgrading signalization, and expansion of bridges.
- F. "Feepayer" is a person commencing a land development activity which generates traffic and which requires the issuance of a building permit.
- G. "Independent fee calculation study" means the traffic engineering and/or economic documentation prepared by a feepayer to allow the determination of the impact fee other than by the use of the table in section 19.04.05.
- H. "Land development activity generating traffic" means any change in land use or any construction of buildings or structures or any change in the use of any structure that attracts or produces vehicular trips.
- I. "Level of service" shall have the same meaning as set forth in the Highway Research Board's Highway Capacity Manual (1965).
- J. "Mandatory or required right-of-way dedications and/or roadway improvements" means such non-compensated dedications and/or roadway improvements required by the city or by the county.
- K. "Road" shall have the same meaning as set forth in Section 334.03, Florida Statutes.
- L. "Site-related improvements" are capital improvements and right-of-way dedications for direct access improvements to and/or within the development in question. Direct access improvements include, but are not limited to, the following:
  - (1) Access roads leading to the development;
  - (2) Driveways and roads within the development;
  - (3) Acceleration and deceleration lanes, and right and left turn lanes leading to those roads and driveways; and
  - (4) Traffic control measures for those roads and driveways.
- M. "Unit" in this article shall not be considered the same as a "lodging unit."

**SECTION 6. AMENDMENT OF LAND DEVELOPMENT CODE SECTION 19.04.04. IMPOSITION OF ROAD IMPACT FEE.** Section 19.04.04. *Imposition of Road impact fee* of the Land Development Code is hereby amended as follows:

19.04.04. *Imposition of transportation ~~road~~ impact fee.*

- A. Any person who, ~~after the effective date of this article,~~ applies for a certificate of occupancy, is hereby required to pay a transportation ~~road~~ impact fee in the manner and amount set forth in this article.
- B. No new certificate of occupancy, for any activity requiring payment of an impact fee pursuant to section 19.04.05.A., shall be issued unless and until the required transportation ~~road~~ impact fee has been paid.
- C. Any development that received a final development order or development permit on or before [the date of adoption of the ordinance creating the “new” fee schedule] shall be subject to the “old” fee schedule in Section 19.04.05, provided that development proceeds to issuance of the certificate of occupancy without expiration of the development order or development permit.
- D. All other development shall be subject to the following fee schedules in Section 19.04.05:
  - 1. The “old” fee schedule for certificates of occupancy issued before [90 days from ordinance adoption].
  - 2. The “interim” fee schedule for certificates of occupancy issued between [90 days from ordinance adoption] and [one year from ordinance adoption], inclusive.
  - 3. The “new” fee schedule for certificates of occupancy issued after [one year from ordinance adoption].
- E. The City may provide estimates of impact fees at time of development order, or building permit for projects not requiring a development order, but such estimates shall not be binding and shall not exempt applicants from paying according to the fee schedule in effect at time of certificate of occupancy.

**SECTION 7. AMENDMENT OF LAND DEVELOPMENT CODE SECTION 19.04.05. COMPUTATION OF THE AMOUNT OF THE ROAD IMPACT FEE.** Section 19.04.05. *Computation of the amount of the road impact fee* of the Land Development Code is hereby amended as follows:

19.04.05. *Computation of the amount of the transportation ~~road~~ impact fee.*

- A. At the option of the feepayer, the amount of the transportation ~~road~~ impact fee may be determined by the following fee schedules:

**“OLD” FEE SCHEDULE**

<b>LAND USE TYPE (ITE CODE)</b>	<b>UNIT</b>	<b>FEE</b>
General light industrial (110)	1,000 s.f.	\$1,030.00
Warehouse/storage/mini-warehouse (151)	1,000 s.f.	369.00
Single-family detached dwelling unit (210)	D.U.*	471.00
Multi-family dwelling unit (220--240)	D.U.	577.00
Hotel/motel (310 and 320)	Room	1,365.00
Marina (420)	Berth	583.00
Golf course (430)	Hole	7,039.00

Racquet/health club (492)	1,000 s.f.	3,376.00
Church (560)	1,000 s.f.	1,794.00
Day care center (565)	1,000 s.f.	3,903.00
Hospital (610)	1,000 s.f.	3,305.00
Nursing home (620)	Bed	514.00
Office under 100,000 s.f. (710)	1,000 s.f.	1,421.00
Office 100,000 s.f. and over (710)	1,000 s.f.	1,871.00
Medical--Dental (720)	1,000 s.f.	3,558.00
Discount superstore (813)	1,000 s.f.	13,967.00
Retail under 100,000 s.f. (820)	1,000 s.f.	3,702.00
Retail 100,000 s.f. (820)	1,000 s.f.	9,400.00
Restaurant: Quality (831)	1,000 s.f.	8,858.00
Restaurant: high turnover sit-down (832)	1,000 s.f.	3,851.00
Restaurant: drive-through window (834)	1,000 s.f.	12,947.00
New car sales (841)	1,000 s.f.	8,863.00
Service station (844)	V.F.P.*	3,984.00
Supermarket (850)	1,000 s.f.	4,832.00
Convenience market (851)	1,000 s.f.	12,355.00
Convenience market with gas pumps (853)	1,000 s.f.	14,157.00
Bank/savings: walk-in (911)	1,000 s.f.	6,549.00
Bank/savings: drive-in (912)	1,000 s.f.	11,100.00

\*D.U.--Dwelling Unit

V.F.P.--Vehicle Fueling Position

“INTERIM” FEE SCHEDULE

<u>LAND USE TYPE</u>	<u>UNIT</u>	<u>FEE</u>
<u>Residential, less than 500 sq. ft.</u>	<u>Dwelling</u>	<u>\$405</u>
<u>Residential, 500 - 749 sq. ft.</u>	<u>Dwelling</u>	<u>\$502</u>
<u>Residential, 750 - 999 sq. ft.</u>	<u>Dwelling</u>	<u>\$593</u>
<u>Residential, 1,000 - 1,499 sq. ft.</u>	<u>Dwelling</u>	<u>\$705</u>
<u>Residential, 1,500 - 1,999 sq. ft.</u>	<u>Dwelling</u>	<u>\$831</u>
<u>Residential, 2,000 - 2,999 sq. ft.</u>	<u>Dwelling</u>	<u>\$988</u>
<u>Residential, 3,000 - 3,999 sq. ft.</u>	<u>Dwelling</u>	<u>\$1,163</u>
<u>Residential, 4,000 sq. ft or more</u>	<u>Dwelling</u>	<u>\$1,315</u>
<u>Mobile Home/RV Park</u>	<u>Pad</u>	<u>\$491</u>
<u>Hotel/Motel</u>	<u>Room</u>	<u>\$680</u>
<b><u>Retail/Commercial</u></b>		
<u>Retail</u>	<u>1,000 sq. ft.</u>	<u>\$1,215</u>
<u>Discount Superstore</u>	<u>1,000 sq. ft.</u>	<u>\$1,555</u>
<u>Bank, Walk-in</u>	<u>1,000 sq. ft.</u>	<u>\$1,411</u>
<u>Bank, Drive-in</u>	<u>1,000 sq. ft.</u>	<u>\$2,223</u>
<u>Supermarket</u>	<u>1,000 sq. ft.</u>	<u>\$2,288</u>
<u>Convenience Market</u>	<u>1,000 sq. ft.</u>	<u>\$2,924</u>
<u>Golf Course</u>	<u>Acre</u>	<u>\$380</u>

<u>Marina</u>	<u>Berth</u>	<u>\$223</u>
<u>Racquet/Health Club</u>	<u>1,000 sq. ft.</u>	<u>\$2,485</u>
<u>Restaurant, Fast Food</u>	<u>1,000 sq. ft.</u>	<u>\$3,217</u>
<u>Restaurant, High Turnover</u>	<u>1,000 sq. ft.</u>	<u>\$3,096</u>
<u>Restaurant, Sit-Down</u>	<u>1,000 sq. ft.</u>	<u>\$2,250</u>
<u>Service Station</u>	<u>Fuel Position</u>	<u>\$714</u>
<b><u>Office/Institutional</u></b>		
<u>Office, General</u>	<u>1,000 sq. ft.</u>	<u>\$974</u>
<u>Hospital</u>	<u>1,000 sq. ft.</u>	<u>\$1,569</u>
<u>Nursing Home</u>	<u>1,000 sq. ft.</u>	<u>\$545</u>
<u>Church/Synagogue</u>	<u>1,000 sq. ft.</u>	<u>\$613</u>
<u>School/College</u>	<u>1,000 sq. ft.</u>	<u>\$246</u>
<u>Day Care Center</u>	<u>1,000 sq. ft.</u>	<u>\$1,420</u>
<u>Other Institutional</u>	<u>1,000 sq. ft.</u>	<u>\$974</u>
<b><u>Industrial</u></b>		
<u>General Light Industrial</u>	<u>1,000 sq. ft.</u>	<u>\$616</u>
<u>Warehouse/Storage</u>	<u>1,000 sq. ft.</u>	<u>\$439</u>
<u>Mini-warehouse</u>	<u>1,000 sq. ft.</u>	<u>\$221</u>

**“NEW” FEE SCHEDULE**

<b><u>LAND USE TYPE</u></b>	<b><u>UNIT</u></b>	<b><u>FEE</u></b>
<u>Residential, less than 500 sq. ft.</u>	<u>Dwelling</u>	<u>\$809</u>
<u>Residential, 500 - 749 sq. ft.</u>	<u>Dwelling</u>	<u>\$1,005</u>
<u>Residential, 750 - 999 sq. ft.</u>	<u>Dwelling</u>	<u>\$1,186</u>
<u>Residential, 1,000 - 1,499 sq. ft.</u>	<u>Dwelling</u>	<u>\$1,410</u>
<u>Residential, 1,500 - 1,999 sq. ft.</u>	<u>Dwelling</u>	<u>\$1,662</u>
<u>Residential, 2,000 - 2,999 sq. ft.</u>	<u>Dwelling</u>	<u>\$1,976</u>
<u>Residential, 3,000 - 3,999 sq. ft.</u>	<u>Dwelling</u>	<u>\$2,326</u>
<u>Residential, 4,000 sq. ft or more</u>	<u>Dwelling</u>	<u>\$2,629</u>
<u>Mobile Home/RV Park</u>	<u>Pad</u>	<u>\$983</u>
<u>Hotel/Motel</u>	<u>Room</u>	<u>\$1,361</u>
<b><u>Retail/Commercial</u></b>		
<u>Retail</u>	<u>1,000 sq. ft.</u>	<u>\$2,430</u>
<u>Discount Superstore</u>	<u>1,000 sq. ft.</u>	<u>\$3,109</u>
<u>Bank, Walk-in</u>	<u>1,000 sq. ft.</u>	<u>\$2,821</u>
<u>Bank, Drive-in</u>	<u>1,000 sq. ft.</u>	<u>\$4,445</u>
<u>Supermarket</u>	<u>1,000 sq. ft.</u>	<u>\$4,575</u>
<u>Convenience Market</u>	<u>1,000 sq. ft.</u>	<u>\$5,848</u>
<u>Golf Course</u>	<u>Acre</u>	<u>\$760</u>
<u>Marina</u>	<u>Berth</u>	<u>\$446</u>
<u>Racquet/Health Club</u>	<u>1,000 sq. ft.</u>	<u>\$4,971</u>
<u>Restaurant, Fast Food</u>	<u>1,000 sq. ft.</u>	<u>\$6,433</u>
<u>Restaurant, High Turnover</u>	<u>1,000 sq. ft.</u>	<u>\$6,192</u>
<u>Restaurant, Sit-Down</u>	<u>1,000 sq. ft.</u>	<u>\$4,500</u>

<u>Service Station</u>	<u>Fuel Position</u>	<u>\$1,428</u>
<b><u>Office/Institutional</u></b>		
<u>Office, General</u>	<u>1,000 sq. ft.</u>	<u>\$1,948</u>
<u>Hospital</u>	<u>1,000 sq. ft.</u>	<u>\$3,137</u>
<u>Nursing Home</u>	<u>1,000 sq. ft.</u>	<u>\$1,090</u>
<u>Church/Synagogue</u>	<u>1,000 sq. ft.</u>	<u>\$1,225</u>
<u>School/College</u>	<u>1,000 sq. ft.</u>	<u>\$491</u>
<u>Day Care Center</u>	<u>1,000 sq. ft.</u>	<u>\$2,840</u>
<u>Other Institutional</u>	<u>1,000 sq. ft.</u>	<u>\$1,948</u>
<b><u>Industrial</u></b>		
<u>General Light Industrial</u>	<u>1,000 sq. ft.</u>	<u>\$1,231</u>
<u>Warehouse/Storage</u>	<u>1,000 sq. ft.</u>	<u>\$877</u>
<u>Mini-warehouse</u>	<u>1,000 sq. ft.</u>	<u>\$442</u>

1. If a certificate of occupancy is requested for mixed uses, then the fee shall be determined by using the above schedule and apportioning the space committed to uses specified on the schedule.
  2. In the case of change of use, redevelopment, or expansion or modification of an existing use which requires the issuance of a certificate of occupancy, the impact fee shall be based upon the net positive increase in the impact fee for the new use as compared to the previous use.
  3. If the type of development activity that a certificate of occupancy is applied for is not specified on the applicable fee schedule, the city manager shall use the fee applicable to the most nearly comparable type of land use on the fee schedule. The city manager shall be guided in the selection of a comparable type by the report titled Trip Generation: An Information Report (latest edition) prepared by Institute of Transportation Engineers. If the city manager determines that there is no comparable type of land use on the applicable fee schedule, the city manager shall determine the fee by:
    - (a) Using traffic generation statistics provided by the Florida Department of Transportation or contained in a report titled Trip Generation: An Information Report (latest edition) prepared by Institute of Transportation Engineers; and
    - (b) Applying the formula set forth in section 19.04.05.B.
- B. If a feepayer opts not to have the impact fee determined according to paragraph A. of this section, then the feepayer shall prepare and submit to the city manager an independent fee calculation study for the land development activity for which a certificate of occupancy is sought. The documentation submitted shall show the basis upon which the independent fee calculation was made. The traffic engineering and/or economic documentation submitted shall show the basis upon which the independent fee calculation was made, including, but not limited to, the following:
- (1) Traffic engineering studies:
    - (a) Documentation of trip generation rates appropriate for the proposed land development activity.
    - (b) Documentation of the relative trip length appropriate for the proposed land development activity.

- (c) Documentation of any other trip data appropriate for the proposed land development activity.
- (2) Economic documentation studies:
- (a) ~~Documentation of the cost per lane per mile for roadway construction appropriate for proposed land development activity.~~
  - (b) Documentation of credits attributable to the proposed land development activity which can be expected to be available to replace the portion of the service volume used by the traffic generated by the proposed land development activity.
- C. The city manager shall consider the documentation submitted by the feepayer but is not required to accept such documentation as he/she shall reasonably deems to be inaccurate or not reliable and may, in the alternative, require the feepayer to submit additional or different documentation for consideration. If an acceptable independent fee calculation study is not presented, the feepayer shall pay the transportation ~~road~~ impact fee based upon the schedule shown in paragraph A. of this section. If an acceptable independent fee calculation study is presented, the city manager may adjust the fee to that appropriate to the particular development. Determinations made by the city manager pursuant to this paragraph may be appealed to the City Council by filing a written request with the city manager within ten days of the city manager's determination. Failure to file an appeal shall constitute a waiver of the feepayer's right to challenge the city manager's determination regarding a feepayer's independent impact fee calculation study.

**SECTION 8. AMENDMENT OF LAND DEVELOPMENT CODE SECTION 19.04.06. PAYMENT OF FEE.** Section 19.04.06. *Payment of fee* of the Land Development Code is hereby amended as follows:

19.04.06. *Payment of fee.*

- A. The feepayer shall pay the transportation ~~road~~ impact fee required by this article to the city manager prior to the issuance of certificate of occupancy.
- B. All funds collected shall be promptly transferred for deposit in the transportation ~~road~~ impact fee trust fund established by section 19.04.08 and used solely for the purposes specified in this article.

**SECTION 9. AMENDMENT OF LAND DEVELOPMENT CODE SECTION 19.04.07. ROAD IMPACT FEE DISTRICT.** Section 19.04.07. *Road impact fee district* of the Land Development Code is hereby amended as follows:

19.04.07. *Transportation Road impact fee district.*

- A. There is hereby established a road impact fee district which shall be all lands lying within the incorporated limits of the city.

**SECTION 10 AMENDMENT OF LAND DEVELOPMENT CODE SECTION 19.04.08. ROAD IMPACT FEE TRUST FUND ESTABLISHED.** Section 19.04.08. *Road impact fee trust fund established* of the Land Development Code is hereby amended as follows:

19.04.08. *Transportation ~~Road~~ impact fee trust fund established.*

- A. There is hereby established a transportation road impact fee trust fund for the transportation road impact fee district established by section 19.04.07.
- B. Funds withdrawn from these accounts must be used in accordance with the provisions of section 19.04.09.

**SECTION 11. AMENDMENT OF LAND DEVELOPMENT CODE SECTION 19.04.09. USE OF FUNDS.** Section 19.04.09. *Use of funds* of the Land Development Code is hereby amended as follows:

19.04.09. *Use of funds.*

- A. Funds collected from the transportation road impact fee shall be used solely for the purpose of capital improvements to and expansion of transportation road facilities identified in the impact fee study on which the “new” fee schedule is based ~~associated with the arterial and collector road network as designated by the City of Destin, the county, or the State of Florida,~~ and shall not be used for periodic or routine maintenance.
- B. Funds shall be expended in the order in which they are collected.
- C. In the event that bonds or similar debt instruments are issued for advanced provision of transportation road capital improvements for which transportation road impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the improvements provided are of the type described in paragraph A. above and are located within the transportation road impact fee district established by section 19.04.07.
- D. At least once each fiscal period, the city manager shall present to the City Council a proposed capital improvement program for transportation roads, assigning funds, including any accrued interest, from the road impact fee trust fund to specific road improvement projects and related expenses. Monies, including any accrued interest, not assigned in any fiscal period shall be retained in the road impact fee trust fund until the next fiscal period, except as provided by section 19.04.10.
- E. Funds may be used to provide refunds as described in section 19.04.10.

**SECTION 12. AMENDMENT OF LAND DEVELOPMENT CODE SECTION 19.04.10. REFUND OF FEES PAID.** Section 19.04.10. *Refund of fees paid* of the Land Development Code is hereby amended as follows:

19.04.10. *Refund of fees paid.*

- A. Any funds not expended or encumbered by the end of the calendar quarter immediately following six years from the date the transportation road impact fee was paid shall, upon application of the then current landowner, be returned to such landowner with interest at the rate of four percent per annum, provided that the landowner submits an application for a refund to the city manager within 180 days of the expiration of the six-year period.

**SECTION 13. AMENDMENT OF LAND DEVELOPMENT CODE SECTION 19.04.11. EXEMPTIONS AND CREDITS.** Section 19.04.11. *Exemptions and credits* of the Land Development Code is hereby amended as follows:

19.04.11. *Exemptions and credits.*

A. Any claim of exemption must be made no later than the time of application for a certificate of occupancy. Any claim not so made shall be deemed waived. The following shall be exempted from payment of the impact fee:

1. Alterations or expansion of an existing building where no additional residential units are created, where the use is not changed, and where no additional vehicular trips will be produced over and above those produced by the existing use.
2. The construction of residential accessory buildings or structures which will not produce additional vehicular trips over and above those produced by the principal building or use of the land.
3. The replacement of a destroyed or partially destroyed building or structure with a new building or structure of the same size and use provided that no additional trips will be produced over and above those produced by the original use of the land.
4. The installation of a replacement mobile home on a lot or other such site when a transportation ~~road~~ impact fee for such mobile home site has previously been paid pursuant to this article or where a mobile home legally existed on such site on or prior to the effective date of this article.

B. Credits:

1. No credit shall be given for site-related improvements or site-related right-of-way dedications.
2. All mandatory or required right-of-way dedications and/or transportation ~~roadway~~ improvements made by a feepayer, subsequent to the effective date of this article, except site-related improvements and any other improvements not included in the calculation of the transportation impact fees, shall be credited on a pro rata basis against transportation ~~road~~ impact fees otherwise due or to become due for development that prompted the city or the county to require such dedications or transportation ~~roadway~~ improvements. Such credits shall be determined and provided as set forth in section 19.04.11.B.3.
3. A feepayer may obtain credit against all or a portion of transportation ~~road~~ impact fees otherwise due or to become due by offering to dedicate non-site-related right-of-way and/or construct non-site-related roadway improvements included in the calculation of the transportation impact fees. This offer must specifically request or provide for a transportation ~~road~~ impact fee credit. Such construction must be in accordance with city, county, or state design standards, whichever is applicable. If the city manager accepts such an offer, whether the acceptance is before or after the effective date of this article, the credit shall be determined and provided in the following manner:

(a) Credit for the dedication of non-site-related right-of-way shall be valued at:

- (1) 115 percent of the most recent assessed value by the property appraiser, or

(2) By such other appropriate method as the City Council may have accepted prior to the effective date of this article for right-of-way dedications and/or roadway capital improvements, or

(3) By fair market value established by private appraisers acceptable to the city.

Credit for the dedication of right-of-way shall be provided when the property has been conveyed at no charge to, and accepted by, the city in a manner satisfactory to the City Council.

(b) Applicants for credit for construction of non-site-related transportation ~~road~~ improvements shall submit acceptable engineering drawings and specifications, and construction cost estimates to the city manager. The city manager shall determine credit for transportation improvement ~~roadway~~ construction based upon either these cost estimates or upon alternative engineering criteria and construction cost estimates if the city manager determines that such estimates submitted by the applicant are either unreliable or inaccurate. The city manager shall provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, and 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 his/her agreement to the terms of the letter or certificate and return such signed document to the city manager before credit will be given. The failure of the applicant to sign, date, and return such document within 60 days shall nullify the credit.

(c) Except as provided in section 19.04.11.B.1.(d), credit against impact fees otherwise due will not be provided until:

(1) The construction is completed and accepted by the city, the county, or the state, whichever is applicable; or

(2) A suitable maintenance and warranty bond is received and approved by the city manager when applicable.

(d) Credit may be provided before completion of specified transportation ~~roadway~~ improvements if adequate assurances are given by the applicant that the standards set out in section 19.04.11.B.1.(c) will be met and if the feepayer posts security as provided below for the costs of such construction. Security in the form of a performance bond, irrevocable letter of credit, or escrow agreement shall be posted with and approved by the City of Destin in an amount determined by the city manager. If the transportation ~~road~~ construction project will not be constructed within one year of the acceptance of the offer by the city manager, the amount of the security shall be increased by ten percent compounded, for each year of the life of the security. The security shall be reviewed and approved by the City Council prior to acceptance of the security. If the transportation ~~road~~ construction project is not to be completed within five years of the date of the feepayer's offer, the City Council must approve the transportation ~~road~~ construction project and its scheduled completion date prior to the acceptance of the offer by the city manager.

(e) Any claim for credit must be made no later than the time of application for a certificate of occupancy. Any claim not so made shall be deemed waived.

- (f) Credits shall not be transferable from one project or development to another without the approval of the City Council and may be transferred to a development in a different impact fee district upon a finding by the City Council that the dedication right-of-way or transportation road construction for which the credit was given benefits such different impact fee district.
- (g) Determinations made by the city manager pursuant to this section may be appealed to the City Council by filing a written request with the city manager within ten days of the city manager's determination. Failure to file an appeal shall constitute a waiver of the feepayer's right to challenge the city manager's determination regarding credits.

**SECTION 14. AMENDMENT OF LAND DEVELOPMENT CODE SECTION 19.04.12. REVIEW.** Section 19.04.12. *Review* of the Land Development Code is hereby amended as follows:

19.04.12. *Review*.

- A. The fee schedule contained in section 19.04.05.A shall be reviewed by the City Council at least once every two years following its adoption. In years when a comprehensive update is not performed, the fees schedules shall be adjusted to account for construction cost inflation, pursuant to the provisions of this section.
- B. On January 1 following each calendar year during which any fee schedule set forth in Section 19.04.05 was not comprehensively updated, an adjusted fee schedule shall become effective. The city manager shall publish on the City's web site and otherwise make publicly available the adjusted impact fee schedule. The city manager shall calculate adjustments to the impact fee rates based upon the percentage change over the most recently-available preceding 12-month period in the Engineering News-Record construction cost index, or, if this index becomes unavailable, a comparable index.

**SECTION 15. INCORPORATION INTO LAND DEVELOPMENT CODE.** This ordinance shall be incorporated into the City of Destin's Land Development Code and any section or paragraph number or letter and any heading may be changed or modified as necessary to effectuate the foregoing.

**SECTION 16. CONFLICTING PROVISIONS.** Special Acts of the Florida Legislature applicable to the incorporated area of the City of Destin, City Ordinances and City Resolutions, or parts, thereof, in conflict with the provisions of this ordinance are hereby superseded by this ordinance to the extent of such conflict.

**SECTION 17. SEVERABILITY.** Each separate provision of this ordinance is deemed independent of all other provisions herein so that if any portion or provision of this ordinance is declared invalid, all other provisions thereof shall remain valid and enforceable.

**SECTION 18. EFFECTIVE DATE.** This Ordinance shall become effective upon its adoption by the City Council and signature by the Mayor.

**ADOPTED THIS \_\_\_ DAY OF \_\_\_\_\_**

By: \_\_\_\_\_  
Craig H. Barker, Mayor

ATTEST:

The form and legal sufficiency of the foregoing has been reviewed and approved by the City Land Use Attorney.

\_\_\_\_\_  
Rey Bailey, City Clerk

\_\_\_\_\_  
Scott Shirley, City Land Use Attorney

First Reading: \_\_\_\_\_  
Second Reading: \_\_\_\_\_