

ORDINANCE NO. 10-02-007

AN ORDINANCE OF THE COUNCIL OF THE CITY OF LOCUST GROVE AMENDING CHAPTER 16.08 ENTITLED "DEVELOPMENT IMPACT FEE"; TO PROVIDE AN EFFECTIVE DATE; TO REPEAL INCONSISTENT PROVISIONS, AND FOR OTHER RELATED PURPOSES.

THE COUNCIL OF THE CITY OF LOCUST GROVE HEREBY ORDAINS

Section 1. Title 16, Chapter 16.08 of the Code of Ordinances of the City of Locust Grove entitled "Development Impact Fee" is hereby amended by creating a new Section 16.08.860 as follows:

Section 16.08.860 Transfer of Credits - Generally

- (A) Credit or a portion of credit assigned to a person or entity for paid development impact fees may be transferred or collateralized only upon strict compliance with the terms of this section and the terms of an applicable private agreement as defined in Article X of this Chapter. To the extent the terms of such development agreement conflict with this section, the terms of this section shall control. Credit may be transferred within the jurisdictional boundaries of the City of Locust Grove. No transfer or collateralization of credit is permitted without first obtaining a certification in accordance with this section, and no transfer or collateralization is valid without filing an affidavit of transfer or collateralization in accordance with this section.
- (B) The Administrator shall maintain and update a record of all credits held, transferred and collateralized.
- (C) Prior to the transfer or collateralization of credit, an application shall be filed with Administrator, providing information requested pursuant to the forms used by that department. Such information shall include at a minimum the following:
 - 1. The value of the credit to be transferred or collateralized based upon the value at the time the credit was approved by action of the Mayor and City Council, or at the time of payment of the impact fee, if no value was assigned by the Mayor and City Council.
 - 2. The name, address, telephone number, electronic mail address and tax identification number of the current holder of the credit affected by the application and the person or entity to whom such credit will be transferred or for whom such credit will serve as collateral. (The applicant shall be the holder of the credit.)
 - 3. A signed and sealed survey by a Georgia registered land surveyor and legal description of the property to which the credit applied at the time of application.
 - 4. In the case of a transfer of credit to be used for a particular parcel, a signed and sealed survey by a Georgia registered land surveyor and legal description of the property to which the credits are intended to be applied.

5. An affirmation by the applicant that the credit stated in the application is not a duplication or misrepresentation of the value of credit actually held by the applicant to be transferred or collateralized.
 6. Authorization by both the applicant and recipient/creditor that the City may record such information to reflect the transfer or collateralization in the Henry County property records.
 7. The signatures of the applicant and recipient/creditor.
 8. Payment of an administrative fee established pursuant to this section.
 9. Any additional information requested by the Administrator regarding the credits or the transaction involving said credits.
- (D) The Administrator shall review the application and the credit records to verify the value of credits to be affected by an application. After verification, the Administrator shall certify in writing the value of credits held by the applicant and transmit or mail said certification to both the applicant and recipient/creditor.
- (E) Within ten (10) calendar days after the transfer or collateralization of the credit, the applicant shall file with the Administrator an affidavit executed by the applicant specifying the value of credit actually transferred or collateralized, to whom and when the credit was transferred or collateralized, and any other information required by the Administrator consistent with this Code Section. The transfer or collateralization shall not exceed the value certified by the Administrator.
- (F) To administer this section, the Administrator may collect a minimum application fee of twenty five dollars (\$25) plus any amount in excess of said fee for recording notice of the transaction in the Henry County property records.
- (G) Failure to strictly follow any of the procedures set forth in this section renders the transfer or collateralization of credits automatically null and void, without effect against the City.

Section 2. This ordinance shall be codified in a manner consistent with the laws of the State of Georgia.

Section 3.

- A. It is hereby declared to be the intention of the City Council that all sections, paragraphs, sentences, clauses and phrases of this ordinance are and were, upon their enactment, believed by the City Council to be fully valid, enforceable and constitutional.
- B. It is hereby declared to be the intention of the City Council that, to the greatest extent allowed by law, each and ever section, paragraph, sentence, clause or phrase of this ordinance is severable from every other section, paragraph, sentence, clause or phrase of this ordinance. It is hereby further declared to be the intention of the City Council that, to the greatest extent allowed by law,, no section, paragraph, sentence, clause or phrase of this ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this

ordinance.

- C. In the event that any section, paragraph, sentence, clause or phrase of this ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the City Council that such invalidity, unconstitutionality or enforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining sections, paragraphs, sentences, clauses or phrases of the ordinance and that, to the greatest extent allowed by law, all remaining section, paragraphs, sentences, clauses or phrases of this ordinance shall remain valid, constitutional, enforceable and of full force and effect.

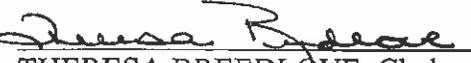
Section 4. Repeal of Conflicting Provisions. Except as otherwise provided herein, all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 5. Effective Date. This ordinance shall become effective immediately upon its adoption by the Mayor and Council of the City of Locust Grove.

SO ORDAINED this 1st day of February, 2010.


LORENE LINDSEY, Mayor

ATTEST:


THERESA BREEDLOVE, Clerk
(seal)