



City of North Port

ORDINANCE NO. 2020-40

AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, RESTATING, AMENDING, AND REPEALING PORTIONS OF CHAPTER 66, ARTICLE III OF THE CODE OF THE CITY OF NORTH PORT, FLORIDA, RELATING TO THE ROAD MAINTENANCE REHABILITATION PROGRAM, THE ROAD REHABILITATION FUND, AND THE CONSTRUCTION TRAFFIC ROAD FEE; PROVIDING FOR FINDINGS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on October 10, 2006, the City Commission adopted Ordinance No. 2006-30, establishing the road maintenance rehabilitation program, the road rehabilitation fund, and the construction traffic road fee; and

WHEREAS, as of 2006, 813 miles of road, serving platted subdivision lots, were within the jurisdiction, control, and maintenance responsibility of the city ("City Roads"); and

WHEREAS, population growth, together with residential and non-residential development in the City, has increased dramatically in the last two decades, straining the adequacy of existing revenues to prevent, detect, and repair wide-scale street and road deterioration due to this growth; and

WHEREAS, as a result of the road deterioration, on April 4, 2006, Infrastructure Management Services issued a study ("IMS Study") of the construction, design, and condition of the roads; and

WHEREAS, in 2012, the City assessed the condition of a 100-mile portion of the roads; and

WHEREAS, pursuant to the 2016 Evaluation, Appraisal, and Review of the North Port Comprehensive Plan, the anticipated growth is expected to continue and to place greater demand upon the City Roads; and

WHEREAS, if not managed through a program of prevention, early detection, and repair, street and road deterioration can lead to large scale disrepair and destruction, resulting in serious traffic safety consequences, a sustained interruption of traffic flow, and the blighting of residential and commercial neighborhoods; and

WHEREAS, City Roads continue to experience damage caused by construction-related trucks, requiring heightened maintenance for ongoing restoration; and

WHEREAS, the special assessment revenues from the Road and Drainage District continue to be insufficient to meet the maintenance and reconstruction needs for the City Roads, and impact fees must not be used maintenance and rehabilitation of existing roads; and

WHEREAS, the City has experienced increased costs related to maintenance, repairs, and reconstruction of City Roads due to being unable to fund the volume of routine maintenance; and

WHEREAS, additional funds are necessary in order to restore North Port streets and roads to their condition prior to this period of unprecedented growth; and

WHEREAS, the fees adopted herein do not constitute impact fees because they are not intended for expanding infrastructure capacity; and

WHEREAS, the City Commission desires to clarify language in the City's code and to provide a process for the potential waiver of construction traffic road fees for qualifying nonresidential and commercial projects; and

WHEREAS, the City Commission finds that the proposed amendments serve the public health, safety, and welfare of the citizens of the City of North Port, Florida.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA:

SECTION 1 – FINDINGS

1.01 The recitals outlined above are incorporated by reference herein as findings of fact.

SECTION 2 – ADOPTION

2.01 Chapter 66 of the Code of the City of North Port, Florida is hereby amended as follows:

“Chapter 66 – SPECIAL DISTRICTS

...

ARTICLE III. – ROAD AND DRAINAGE DISTRICT

DIVISION 1. – IN GENERAL

...

DIVISION 2. – ROAD MAINTENANCE REHABILITATION PROGRAM

Sec. 66-66. – Purpose and methodology.

The use of city streets and roads involves a complex mixture of interdependent uses between categories of residentially and non-residentially developed property and residential and non-residential undeveloped property. In order to determine the effect of growth, and particularly of construction traffic, related to residential and non-residential undeveloped property has upon the streets and roads of the city, the IMS Study developed a methodology with the following components:

(a) The city's 2005 GIS topology identifying the local, collector, and arterial roadway network and 94 identified neighborhoods;

(b) The 94 neighborhoods were aggregated into five analysis areas as identified on the IMS Study;

- (c) For each neighborhood, the number of undeveloped and developed lots were identified, including the length and average condition of the local, collector, and arterial roadways. Neighborhood counts are identified in Table 2 to the IMS Study Analysis Memorandum. The Pavement Condition Index ratings are identified Table 4 to the IMS Study Analysis Memorandum;
- (d) Construction costs were developed for rehabilitation of local, collector and arterial roadways. The costs were based on rebuilding the roadways in their present location to current standards;
- (e) Arterial roadway deterioration was based on identifying the number of truck counts used to develop an average lot, converting them to equivalent single axle loads and then estimating the number of years of deterioration from the truck loading based on average traffic conditions for similar roadways;
- (f) For areas identified in the study as 1, 2, 3 and 4, roads and streets were identified for Salvage, Recoverable and Reinvestment costs for each roadway affected by development. Due to the low density of the development in Area 1, such area was broken out from Area 4, as the recoverable costs in Area 4 on a per lot basis are much higher. Area 5 was removed from the construction traffic road fee calculations, due to the higher level of development within Area 5 - Core; and
- (g) The total costs, mileage, lot counts and area were aggregated together to develop an overall construction traffic road fee for the city. No salvage values for the local and collector networks have been included as the roadways will need 100 percent reconstruction, including drainage and landscaping.

~~Section 66-66. Purpose and intent~~

~~The City Commission of the City of North Port adopts this article, sections 66-66—66-74, for the following purposes:~~

- ~~(a) In 2006 the City of North Port had approximately 813 miles of roads, all constructed by the General Development Corporation in the 1970's;~~
- ~~(b) Population growth, together with residential and non-residential development in the City, of North Port has increased dramatically in the last two decades straining the adequacy of existing revenues to prevent, detect, and repair wide-scale street and road deterioration due to this growth;~~
- ~~(c) The revised and updated comprehensive plan for the City of North Port indicates that this growth will continue placing greater demand upon the road network in the City of North Port. Street and road deterioration, if not managed through a program of prevention, early detection, and repair, can lead to large scale disrepair and destruction of City streets and roads with serious traffic safety consequences as well as a sustained interruption of residential, and commercial flow of traffic and the blighting of residential, and commercial neighborhoods in areas of the City;~~

- ~~(d) Special assessments collected by the North Port Road and Drainage District have been insufficient to prevent, detect, and repair street and road deterioration in North Port as the result of construction traffic during these times of unprecedented growth. Impact fees may not be used for rehabilitation of existing roads;~~
- ~~(e) Additional funds are necessary in order to restore North Port streets and roads to their condition prior to this period of unprecedented growth;~~
- ~~(f) The road rehabilitation fee analysis completed April 4, 2006, by Infrastructure Management Services (IMS), is incorporated herein and made a part of the basis for this article, sections 66-66 — 66-74;~~
- ~~(g) The fees proposed herein are not impact fees as they are not intended for new capital infrastructure.~~

Sec. 66-67. – Definitions.

~~For the purpose of this section~~ When used pursuant to the road maintenance rehabilitation program, the following terms, phrases, words, and their derivations shall have the meanings given herein:

~~*Building permit-Permit.*~~ The permit required for new construction and additions pursuant to the city's City of North Port's existing subdivision and zoning regulations. ~~For the purpose of this article, the~~ This term also includes any development order authorizing the creation or expansion of a mobile home or recreational vehicle park.

~~*Developed property-Property.*~~ A parcel or portion of real property on which an improvement exists. Improvement on developed property includes, but is not limited to, buildings, parking lots, and outside storage.

~~*Gross square footage-Square Footage.*~~ The calculated area of all structures, located on a site, measured along the exterior walls of such structures, including, but not limited to, enclosed courtyards, stairwells, and square footage on each level of multi-story structures, but not including fences and parking areas ~~which are not enclosed within a building.~~

~~*ITE Manual.*~~ Institute of Transportation Engineers Trip Generation Manual, Fifth Edition.

~~*Multi-family residential.-Residential.*~~ A manufactured home development or a building consisting of two-three (3) or more dwelling units, including condominiums. ~~For purposes of this article, sections 66-66 through 66-74, condominiums, and individual mobile home units are also classified as multi-family residences.~~

~~*Non-residential.*~~ A use of property which includes commercial, transient lodging, and industrial.

~~*Pavement Condition Index (PCI).*~~ A uniform way to measure pavement distress utilized in the IMS Study, with a rating scale from ~~one~~ 1 to 100, with higher values indicating better condition.

~~Recoverable. Represent the~~ The costs that the city may recover from lot development, and is based on taking the total rehabilitation costs multiplied by times the pavement condition score, minus less the salvage value. For example, if the cost to rebuild a street is \$100,000.00 and the pre-development score was 55 and the salvage value is equal to \$0.00, the recoverable cost would equal $(\$100,000.00 \times 55/100) - \$0.00 = \$55,000.00$.

~~Reinvestment. Represent the~~ The cost to rehabilitate the roadways minus less the salvage and recoverable costs. These are This is the monies the city would have to provide from other funding sources to complete the construction traffic road rehabilitation.

~~Salvage value. The value of the existing road, including the roadway base, pavement, drainage, landscaping and other components of the city road construction standards. No salvage values for the local and collector networks have been included as the roadways will need 100 percent reconstruction, including drainage and landscaping.~~

~~Single-family and two-family residential~~ Single-Family Residential. A residential structure which is occupied by one or more persons of which there shall be ~~only~~ one or two dwelling units per lot and which provides complete, independent living facilities for one or more persons in each dwelling unit including, but not limited to, permanent provisions for living, sleeping, eating, cooking and sanitation. A granny flat shall be considered as part of a single-family residential structure residence.

~~Street or road. A public road or right-of-way within the city, which that is under the jurisdiction or control of the city. For purposes of this article, sections 66-66—66-74, the road maintenance rehabilitation program, the roads of the federal, state, county, or other governmental entities are excluded.~~

~~Truck. A motor vehicle delivering construction related materials, supplies, equipment and other loads to the construction site and having six or more tires in contact with the pavement.~~

Sec. 66-68. – Regulatory program.

- (a) There is hereby created a road maintenance rehabilitation program used for prevention, early detection, and repair of the city of North Port streets, ~~system to their condition prior to the present period of unprecedented growth.~~
- (b) A road rehabilitation fund is hereby established. Construction traffic road fee revenues ~~Revenues~~ collected pursuant to the road maintenance rehabilitation program and shall be deposited into this the road rehabilitation fund and must be this article, sections 66-66—66-74 shall be dedicated to the construction traffic road fund and used exclusively to fund a street/construction traffic road rehabilitation program to provide for a safe, functioning street system. In the event that ~~construction traffic road~~ the program fees collected are insufficient to properly regulate the rehabilitation of city streets, additional funding may be allocated by the city commission from other non-dedicated city funds provided, however, the city commission may direct the reimbursement to such other fund if additional construction traffic road fees are collected.

~~Sec. 66-69. — Administrative policies.~~

- (a) ~~The use of North Port City streets and roads involves a complex mixture of interdependent uses between categories of residentially and non-residentially developed property and residential and non-residential undeveloped property. In order to determine the effect growth, particularly construction traffic, related to residential and non-residential undeveloped property has upon the streets and roads of the City of North Port, a methodology was developed whereby the City's 2005 GIS topology was used as a basis for identifying the local, collector, and arterial roadway network and 94 identified neighborhoods. The 94 neighborhoods were aggregated into five analysis areas as identified on the IMS study. On a neighborhood by neighborhood basis, the number of undeveloped and developed lots were identified, plus the length and average condition of the local, collector and arterial roadways. Neighborhood counts are identified in Table 2 to the IMS Analysis Memorandum. Construction costs were developed for rehabilitation of local, collector and arterial roadways. The costs were based on rebuilding the roadways in their present location to current standards. Arterial roadway deterioration was based on identifying the number of truck counts used to develop an average lot, converting them to equivalent single axle loads and then estimating the number of years of deterioration from the truck loading based on average traffic conditions for similar roadways. For areas identified in the study as 1, 2, 3 and 4, roads and streets were identified as either Salvage, Recoverable and Reinvestment costs for each roadway affected by development. Due to the low density of the development in Area 1, such area was broken out from Area 4 as recoverable costs on a per lot basis are much higher. Due to the higher level of development within Area 5—Core, it was removed from the construction traffic road fee calculations. The total costs, mileage, lot counts and area were aggregated together to develop an overall construction traffic road fee for the City.~~
- (b) ~~The City Manager, or his/her designee, is authorized and directed to review the operation of this article, sections 66-66—66-74, and where appropriate, recommend changes thereto in the form of administrative procedures for adoption by the City Commission by resolution. Such procedures, if adopted by the City Commission, shall be given full force and effect and, unless clearly inconsistent with this article, sections 66-66-66-74, shall apply uniformly throughout the City.~~
- (c) ~~The initial construction traffic road fees shall not be increased for the first three years of this program's operation, except by an annual increase for inflation beginning on October 1st of each new budget year. During the third year of the road maintenance rehabilitation program, this program the city manager, or his/her designee and/or consultants hired by the City, shall review the construction traffic road fees and advise the commission of any suggested changes that are deemed advisable. Such a review shall occur sooner than the third year, in the event the city receives or becomes eligible for substantial new sources of funds from federal, state, regional, or county programs that have been earmarked for construction traffic road rehabilitation and that will enable project construction.~~
- (d) ~~The provisions of this article, sections 66-66—66-7266-74, shall be appealed by writ of certiorari within 30 days of its effective date.~~

Sec. 66-~~69~~70. – Construction traffic road fee.

- (a) A construction traffic road fee is hereby established ~~and shall be assessed on all residential. The fee must be paid prior to the issuance of a building permit and will be assessed as follows:~~
- (1) All single-family and two-family residential building permits will be assessed at \$0.50 per square foot of building all structures. The building permit shall not be issued until such time as the fee is paid.
 - (2) All other building permits, including non-residential, commercial, or multi-family residential will be assessed at \$0.75 per square foot of all structures.
- (b) Developed property shall not be charged a construction traffic road fee.
- ~~(c) For non-residential, commercial and multi-family developments, a construction traffic road fee is hereby established and shall be collected at the time of issuance of building permit at \$0.75 per square foot of building print.~~

Sec. 66-~~70~~71. – Enforcement.

- (a) In addition to other lawful enforcement procedures, the city may enforce the collection of charges required by the road maintenance rehabilitation program this article, sections 66-66—66-74, by withholding delivery of building permits until such time as the construction traffic road fees are paid.
- (b) Construction ~~that which~~ has begun without the payment of the construction traffic road fees shall be handled pursuant to other sections of this the North Port City Code and/or the Florida Building Code with regard to construction without a building permit.
- (c) Notwithstanding any provision herein to the contrary, the city may institute any necessary legal proceedings to enforce the provisions of the road maintenance rehabilitation program this article, sections 66-66—66-74, including, but not limited to, injunctive relief and collection of charges owing. The city's enforcement rights shall be cumulative. The city shall be entitled to any attorneys' fees and costs incurred with required in the collection of funds due under the road maintenance rehabilitation program. this article, sections 66-66—66-74.

Sec. 66-71 – Fee waiver.

- (a) *Timing.* Prior to applying for a building permit, a property owner intending to engage in construction of a non-residential or commercial development may request a waiver of the applicable construction traffic road fee by submitting an application for the fee waiver on the city's approved form. In the event the building permit application is filed before the final determination on the fee waiver application, the fee waiver application will automatically be deemed denied.

(b) Application. To qualify for a waiver of the applicable construction traffic road fee, the applicant must demonstrate the following:

- (1) Evidence of ownership of the property for the non-residential or commercial building site, including county-recorded instrument.
- (2) The applicant is the property owner for the site proposed for construction, or a person authorized by the owner, who provides the owner's sworn notarized authorization to apply for a waiver on the owner's behalf.
- (3) The legal description, parcel identification number, and address of the property.
- (4) For all construction-related trucks accessing or exiting the building site:
 - a. The identification of the proposed trucking routes and ownership records evidencing federal, state, county, or other governmental ownership of the roads.
 - b. The subdivision plat for the location of the proposed building permit site, and the location for disposal of all construction materials.
- (5) That the proposed transportation routes do not adversely impact the city-wide transportation network or increase the number of trips to the property.
- (6) An economic impact statement for the proposed construction as it relates to the impact on the governmental entity of the City of North Port, Florida and its special districts. The economic impact statement must include the anticipated taxable value of the construction project and the number and pay ranges of anticipated jobs.
- (c) Determination. The director for the public works operations will provide a recommendation on the application for the fee waiver. The city manager is authorized to make a final determination as to whether the application will be granted or denied, in whole or part, and to designate the authorized trucking routes and roads. No City Roads will be authorized for trucking routes.
- (d) Security. The applicant must provide a performance guarantee in the amount of 100 percent (100%) of the total construction traffic road fee. The security will be a performance bond or a letter of credit.
- (e) Contract. A fee waiver will become effective only upon a duly-executed contract between the applicant and the city, affirming that the construction-related trucks will not use city streets or roads to access or exit the building permit site and that the construction-related trucks will only use roads in the authorized trucking route.
- (f) Enforcement.
 - (1) Waiver revocation. Failure to comply with the contract will be grounds for revocation of the city manager's approval of the waiver of the fee required by this

article and for the city's exercise of the right to claim against the bond or to draft on the letter of credit in the amount of the total fee. Prior to the revocation of the waiver, the applicant will be provided notice of the city manager's intent to revoke the waiver and an opportunity for a hearing before the city manager. The city manager will issue the determination in writing. In the event that the applicant disagrees with the city manager's determination, then the applicant may, within ten (10) days of the manager's determination, file a written request to appeal the decision to the city commission. The payment of the total fee will be required within twenty (20) days after issuance of the final determination of revocation.

- (2) Security. In addition to any other remedies available at law, upon failure to comply with the contract and final revocation of the waiver, the city will be authorized to file a claim upon the bond or to withdraw funds from the letter of credit."

SECTION 3 – REPEAL

- 3.01 Section 66-72 of the Code of the City of North Port, Florida is hereby repealed in its entirety.
- 3.02 Section 66-73 of the Code of the City of North Port, Florida is hereby repealed in its entirety.
- 3.03 Section 66-74 of the Code of the City of North Port, Florida is hereby repealed in its entirety.

SECTION 4 – CONFLICTS

- 4.01 In the event of any conflict between the provisions of this ordinance and any other ordinance or portions thereof, the provisions of this ordinance shall prevail to the extent of such conflict.

SECTION 5 – SEVERABILITY

- 5.01 If any section, subsection, sentence, clause, phrase, or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of the ordinance.

SECTION 6 – CODIFICATION

6.01 In this ordinance, additions are shown as underlined and deletions as ~~striketrough~~. Any additional codification information and notations appear in *italics*. These editorial notations shall not appear in the codified text.

SECTION 7 – EFFECTIVE DATE

7.01 This ordinance shall take effect immediately upon adoption by the City Commission of the City of North Port, Florida.

READ BY TITLE ONLY at first reading by the City Commission of the City of North Port, Florida in public session the 10th day of November 2020.

PASSED and DULY ADOPTED by the City Commission of the City of North Port, Florida on the second and final reading in public session this 8th day of December 2020.

CITY OF NORTH PORT, FLORIDA

GISELE “JILL” E. LUKE
MAYOR

ATTEST

HEATHER TAYLOR, CMC
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS

AMBER L. SLAYTON
CITY ATTORNEY