

§ 2-24.35 - Eligibility criteria.

- (a) *New businesses* . In order to be eligible to apply for deferral of its impact fee obligation(s), a new business must fall within one of the following categories:
- (1) *Category I* . A business establishing ten or more new jobs to employ ten or more full-time employees (or a sufficient number of full-time equivalent employees so as to constitute ten or more full-time employees) in the city, which manufactures, processes, compounds, fabricates or produces for sale items of tangible personal property at a single fixed location within the city, and which comprises an industrial or manufacturing plant or facility. No business engaged in retail sales shall be considered to be included in this category;
 - (2) *Category II* . A business establishing 25 or more new jobs to employ 25 or more full-time employees (or a sufficient number of full-time equivalent employees so as to constitute 25 or more full-time employees) in the city, which delivers, performs, offers or engages in mechanical, personal, professional or trade services at a single fixed location within the city, and which comprises an industrial, commercial, or professional facility. No business engaged in retail sales shall be considered to be included in this category; or
 - (3) *Category III* . Any other business establishing 50 or more new jobs to employ 50 or more full-time employees (or a sufficient number of full-time equivalent employees so as to constitute 50 or more full-time employees) at a single fixed location in the city, and which comprises a commercial facility. Businesses engaged in retail sales shall be included within this category.
- (b) *Existing businesses* . In order to be eligible to apply for deferral of its impact fee obligation(s), an existing business must expand its business so as to fall within one of the following categories:
- (1) *Category I* . A business establishing ten or more additional new jobs to employ ten or more full-time employees (or a sufficient number of full-time equivalent employees so as to constitute ten or more full-time employees) in the city, which manufactures, processes, compounds, fabricates or produces for sale items of tangible personal property at a single fixed location within the city, and which comprises an industrial or manufacturing plant or facility. The increase in the operation of the business must be at a site co-located with an industrial, a commercial or a professional operation owned by the same business. No business engaged in retail sales shall be considered to be included in this category;
 - (2) *Category II* . A business establishing 25 or more new jobs to employ 25 or more full-time employees (or a sufficient number of full-time equivalent employees so as to constitute 25 or more full-time employees) in the city, which delivers, performs, offers or engages in mechanical, personal, professional or trade services at a single fixed location within

the city, and which comprises an industrial, commercial or professional facility. The increase in the operation of the business must be at a site co-located with an industrial, a commercial or a professional operation owned by the same business. No business engaged in retail sales shall be considered to be included in this category; or

- (3) *Category III*. Any other business establishing 50 or more new jobs to employ 50 or more full-time employees (or a sufficient number of full-time equivalent employees so as to constitute 50 or more full-time employees) at a single fixed location in the city, and which comprises a commercial facility. The increase in the operation of the business must be at a site co-located with an industrial, a commercial or a professional operation owned by the same business. Businesses engaged in retail sales shall be included within this category.

(c) *Initial eligibility*.

- (1) *Application*. In order to be considered for eligibility to receive an impact fee deferral under this article, a business must first submit an application for impact fee deferral on a form supplied for this purpose by the city.
- (2) *Determination of initial eligibility*. For purposes of determining initial eligibility of new businesses and the expansion of existing businesses for impact fee deferrals under this article, the number of new jobs created will be based on the actual number of documented full-time employees or full-time equivalent employees the business, at the time of application for the impact fee deferral, either actually employs or pledges to employ within a reasonable period of time following the approval of the impact fee deferral. The number of new jobs created shall be calculated as follows:

- a. *New businesses*. For new businesses, the number of new jobs created shall be calculated by combining the number of jobs, if any, the new business has located in Cape Coral as of the date of imposition of the impact fee for which deferral is sought with the number of new jobs, if any, which the new business is pledging to employ within a 12 month period from the date of imposition of the impact fee.
- b. *Existing businesses*. For existing businesses, the number of new jobs created by the expansion of an existing business shall be calculated by combining the number of new jobs, if any, which the business created during the six months immediately preceding the date the business files its application for impact fee deferral with the number of new jobs, if any, which the existing business is pledging to employ within a 12 month period from the date it files its application for impact fee deferral.

- (d) *Maintaining eligibility status*. In order to maintain its eligibility status, a business which has received an impact fee deferral pursuant to this article must continue to maintain at least the minimum number of full-time employees or full-time equivalent employees in the new jobs or similar jobs throughout the impact fee deferral period. In the event the number of full-

time or full-time equivalent employees of the business fall below the minimum necessary for initial eligibility, the City Council shall have the right to terminate the impact fee deferral for the business and to declare the entire impact fee(s) for the business to be immediately due and payable. In making its determination as to whether to terminate the impact fee deferral status for businesses whose employees fall below the minimum necessary for initial eligibility, the City Council shall take into consideration the size of the decrease in jobs since the initial eligibility period, whether the jobs have been eliminated or are merely vacant, the length of time the jobs have been vacant, the attempts, if any, that the business has made to fill the jobs, and any other factor(s) that the City Council may deem relevant to its decision. For businesses which have received a longer deferral period because of the number of city residents employed by the business, the City Council shall have the right to reduce the length of the deferral period in the event the number of employees who are city residents falls below the minimum necessary for the longer deferral period. In making its determination as to whether to so reduce the longer deferral period for the businesses, the City Council shall, in addition to the foregoing factors identified in this section, take into consideration the size of the decrease in the percentage of city residents employed by the business and the reason for the decrease.

- (e) *Exemption* . Any business which is exempt under applicable Florida law from paying ad valorem property taxes is ineligible for impact fee deferral(s) under this article regardless of whether the business might otherwise meet the eligibility criteria established herein.

§ 2-24.37 - Calculation of impact fee deferrals.

The impact fee deferral period approved for an eligible business under this division shall be determined by both the total number of employees the business has and the number of employees who are residents of the city as well as other factors as follows:

(a) *Basic impact fee deferral* .

- (1) Category I businesses (whether new or expanding) shall receive impact fee deferrals as follows:

- a. Category I businesses with ten to 24 full-time employees (or the requisite number of full time equivalent employees) shall receive a one year deferral of their impact fees. However, if 75 to 89% of a business's employees are city residents, then the business shall receive a two year deferral of its impact fees. If 90 to 100% of a business's employees are city residents, then the business shall receive a three year deferral of its impact fees.
- b. Category I businesses with 25 to 49 full time employees (or the requisite number of full time equivalent employees) shall receive a two year deferral of their impact fees. However, if 75 to 89% of a business's employees are city

residents, then the business shall receive a three year deferral of its impact fees. If 90 to 100% of a business's employees are city residents, then the business shall receive a four year deferral of its impact fees.

- c. Category I businesses with 50 to 99 full time employees (or the requisite number of full time equivalent employees) shall receive a three year deferral of their impact fees. However, if 75 to 89% of a business's employees are city residents, then the business shall receive a four year deferral of its impact fees. If 90 to 100% of a business's employees are city residents, then the business shall receive a five year deferral of its impact fees.
 - d. Category I businesses with 100 to 199 full time employees (or the requisite number of full time equivalent employees) shall receive a four year deferral of their impact fees. However, if 75 to 89% of a business's employees are city residents, then the business shall receive a five year deferral of its impact fees. If 90 to 100% of a business's employees are city residents, then the business shall receive a six year deferral of its impact fees.
 - e. Category I businesses with 200 or more full time employees (or the requisite number of full time equivalent employees) may receive a deferral of their impact fees that is equal to or longer than those deferral periods stated above. The length of the deferral period shall be determined by the City Council. In making its determination as to the length of the deferral period for a Category I business, the City Council shall consider factors such as the total number of new jobs being created, the nature or type of new jobs, and the number of city residents who would be employed in the business as well as other factors that the City Council deems relevant to its decision. However, in no event shall the deferral period awarded a business under this article exceed ten years.
- (2) Category II businesses (whether new or expanding) shall receive impact fee deferrals as follows:
- a. Category II businesses with 25 to 49 full time employees (or the requisite number of full time equivalent employees) shall receive a one year deferral of their impact fees. However, if 75 to 89% of a business's employees are city residents, then the business shall receive a two year deferral of its impact fees. If 90 to 100% of a business's employees are city residents, then the business shall receive a three year deferral of its impact fees.
 - b. Category II businesses with 50 to 99 full time employees (or the requisite number of full time equivalent employees) shall receive a two year deferral of their impact fees. However, if 75 to 89% of a business's employees are city

residents, then the business shall receive a three year deferral of its impact fees. If 90 to 100% of a business's employees are city residents, then the business shall receive a four year deferral of its impact fees.

- c. Category II businesses with 100 to 199 full time employees (or the requisite number of full time equivalent employees) shall receive a three year deferral of their impact fees. However, if 75 to 89% of a business's employees are city residents, then the business shall receive a four year deferral of its impact fees. If 90 to 100% of a business's employees are city residents, then the business shall receive a five year deferral of its impact fees.
 - d. Category II businesses with 200 or more full time employees (or the requisite number of full time equivalent employees) may receive a deferral of their impact fees that is equal to or longer than those deferral periods stated above. The length of the deferral period shall be determined by the City Council. In making its determination as to the length of the deferral period for a Category II business, the City Council shall consider factors such as the total number of new jobs being created, the nature or type of new jobs, and the number of city residents who would be employed in the business as well as other factors that the City Council deems relevant to its decision. However, in no event shall the deferral period awarded a business under this article exceed ten years.
- (3) Category III businesses (whether new or expanding) shall receive impact fee deferrals as follows:
- a. Category III businesses with 50 to 99 full time employees (or the requisite number of full time equivalent employees) shall receive a one year deferral of their impact fees. However, if 75 to 89% of a business's employees are city residents, then the business shall receive a two year deferral of its impact fees. If 90 to 100% of a business's employees are city residents, then the business shall receive a three year deferral of its impact fees.
 - b. Category III businesses with 100 to 199 full time employees (or the requisite number of full time equivalent employees) shall receive a two year deferral of their impact fees. However, if 75 to 89% of a business's employees are city residents, then the business shall receive a three year deferral of its impact fees. If 90 to 100% of a business's employees are city residents, then the business shall receive a four year deferral of its impact fees.
 - c. Category III businesses with 200 or more full time employees (or the requisite number of full time equivalent employees) may receive a deferral of their impact fees that is equal to or longer than those deferral periods stated above. The length of the deferral period shall be determined by the City

Council. In making its determination as to the length of the deferral period for a Category III business, the City Council shall consider factors such as the total number of new jobs being created, the nature or type of new jobs and the number of city residents who would be employed in the business as well as other factors that the City Council deems relevant to its decision. However, in no event shall the deferral period awarded a business under this article exceed ten years.

- (b) *Supplementary impact fee deferral*. In addition to the basic impact fee deferral period, businesses which are eligible for impact fee deferrals under this article may also be granted an additional or "supplementary" impact fee deferral period.
- (1) *Supplementary criteria*. In determining whether to grant such a supplementary impact fee deferral period, the City Council shall consider the following supplementary criteria and award points on a scale of one to five for each of the following criteria:
- a. The added value to the community of the new or expanded business. Factors which may be considered by the City Council in determining the added value to the community of the new or expanded business include, but are not limited to, the nature of the business, the physical location of the business in terms of community redevelopment, and the need for a particular type of business in the community;
 - b. The stability of the business. This includes factors such as whether the industry in which the business is engaged has a constant or cyclic rate of production and whether the business or industry has frequent periods of inactivity which tend to result in lay-offs or reductions in force;
 - c. The type of new jobs being created and their pay scale. The higher the income or salary for the new jobs being created by the business, the higher the new or expanded business would rate in this area. For example, a business creating new jobs with a pay scale/income higher than the median income in Lee County would rate higher in this area than a business creating new jobs with a pay scale/income lower than the median income in Lee County;
 - d. The number of new supplementary or support jobs indirectly being created by the business. This factor addresses the anticipated need of the new or expanded business for local products or for local services and the resulting anticipated effect of the new or expanded business on the regional job base;
 - e. The financial stability of the business. Factors which may be considered by the City Council in determining the financial stability of the business include, but are not limited to, the financial condition of the business at the time of

application for impact fee deferral, the business's economic history, its asset/debt ration, and the fiscal management structure established for the business; and

- f. The anticipated contribution of the business to the city ad valorem tax base. The greater the anticipated contribution of the new or expanded business to the city's ad valorem tax base, the higher the business would rate in this area.
- (2) *Supplementary point scale* . The city shall consider each of the above criteria for each eligible business which applies for impact fee deferral(s) under this article. For each of the above criteria, the city shall award points on a scale of one to five with one being the lowest and five being the highest number of points which may be awarded for each of the criteria so that 30 is the highest possible total number of supplementary points that may be awarded to a business under this article.
 - (3) *Calculation of supplementary deferral period* . The length of the supplementary deferral period which may be awarded under this article shall be calculated utilizing the supplementary point scale as follows:
 - a. Zero to 15 supplementary points: no supplementary deferral period;
 - b. Sixteen to 24 supplementary points: supplementary deferral period of six months; and
 - c. Twenty-five to 30 supplementary points: supplementary deferral period of 12 months.
 - (4) *Length of deferral period* . Any supplementary deferral period granted to a business under this section shall be in addition to the basic impact fee deferral period granted under subsection (a) above. However, in no event shall the total impact fee deferral period (including both the basic deferral period and the supplementary deferral period, if any) granted to a business exceed ten years.

§ 2-24.40 - Extended payment period for deferred impact fee.

- (a) *Application* . Any business which has been granted an impact fee deferral pursuant to the terms of this division and who desires to pay the impact fee(s) so deferred over an extended period of time rather than to pay them in a single lump-sum at the expiration of the deferral period may apply to the city for an extended payment period. The application shall be made in writing on a form available from the city and shall be filed with the city no later than 180 calendar days prior to the expiration of the deferral period.
- (b) *Term* . If the City Council approves the application for an extended payment period, the business shall be allowed an additional period of time during which to repay the previously deferred impact fee(s). The extended payment period may equal, but not exceed the length

of the impact fee deferral period. However, in no event shall the combination of the extended payment period with the deferral period exceed ten years from the date when the deferred impact fee(s) were originally due.

- (c) *Payment terms* . Any business granted an extended period of time in which to pay the previously deferred impact fee(s) shall pay the impact fee(s) over the life of the extended payment period together with interest at a rate equal to 0.5% over the prevailing prime rate at the time the city approves the application for an extended payment period. Prepayments shall be accepted at any time and a business which chooses to prepay shall be charged interest only to the date of any prepayment together with any administrative costs authorized by the city.