

## CHAPTER 159. IMPACT FEES

### ARTICLE II. MOBILITY FEES

#### Sec. 159.101. Short Title, Authority, and Applicability; Adoption of Technical Report.

- (A) This article shall be known and may be cited as the "Port St. Lucie Mobility Fee Ordinance."
- (B) The City of Port St. Lucie has the authority to adopt this article pursuant to its home rule powers under its City Charter granted by Article VIII of the Constitution of the State of Florida and Chapter 166 Florida Statutes, and pursuant to Chapters 163 and 380 Florida Statutes and Florida case law.
- (C) The City of Port St. Lucie has the power and responsibility to provide a multimodal transportation system comprised of bicycle lanes, boardwalks, corridors, dedicated transit lanes, greenways, hardscape, high-visibility crosswalks, landscape, lighting, interchanges, intersections, ~~micromobility lanes, micromobility ways,~~ mid-block crossings, mobility hubs, multimodal lanes and ways, multi-use paths, overpasses, pedestrian and vehicle signals, roads, roundabouts, shared mobility services and programs, ~~shared-use paths,~~ sidewalks, stormwater management facilities, safety enhancements, streets, streetscape, traffic control devices, signals, trails, transit circulators and transit facilities, underpasses, water taxi service and stops, in the City.
- (D) New development, ~~and~~ redevelopment, change of use, and alterations or changes of use in land within the City (collectively known as "development activity"), that generates an increase in person travel demand over and above that generated by the existing use of land, within the City and therefore generates a need for impacts the multimodal capital improvements in needs of the City.
- (~~E~~) Development of a Mobility Plan for multimodal capital improvement infrastructure needed to serve ~~new~~ development activity and redevelopment that generates additional person travel demand for multimodal facilities, services and programs, and the subsequent implementation of a Mobility Plan, is a responsibility of the City. Moreover, development of a Mobility Plan, based on projected growth in person miles of travel and the increase in person travel demand, is in the best interests of the health, safety, and welfare of the citizens of the City.
- (~~E~~) The Technical Report, as defined herein, is hereby approved, ~~and~~ adopted by the Council. The adoption by the Council specifically includes, but is not limited to, the following: the multimodal capital improvements multimodal improvements included in the Phase ~~Two One~~ Mobility Plan mobility plan; the basis of the assumptions, conclusions and findings in the Technical Report as to the basis of the mobility fee; the areawide level of service (LOS) and multimodal quality of service (QOS) standards; the methodology for calculating the mobility fee; the extraordinary increase in person miles of travel; the person miles of capacity assigned to multimodal capital improvements; and the person travel demand Person Travel Demand assigned to various land use categories. The Technical Report presents the technical analysis and detailed methodology supporting the mobility fees Mobility Fees adopted herein consistent with the multimodal capital improvements included in the Phase ~~Two One~~ Mobility Plan. The Phase ~~Two One~~ Mobility Plan consist of mobility and multimodal corridors and intersections identified to meet the extraordinary projected growth increase in person miles of travel and the increase in person travel demand Person Travel Demand by 2045. The Technical Report shall be maintained by the City and is available to the public upon request.
- (~~G~~) Notwithstanding any provision in this article to the contrary, the City will honor all credit agreements for City ~~and County~~ road impact fees against the obligation to pay the City mobility fee. For Applicants that hold City road impact fee credit, the obligation to pay the City mobility fee will be met by applying the existing credit

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~~assessed at the rate in accordance with the last updated City road impact fee schedule (Ord. 13-26; 2013), in accordance with their terms. The City will enter into true-up updated credit agreements with all Applicants with City road impact fee credits within six (6) months within the 18 months following October 1<sup>st</sup>, 2022. The true-up agreement will establish a base road impact fee credit amount, define the amount of road impact fee credit already utilized, and define the drawdown of the road impact fee credit for the Applicant's development activity. 5, 2021 to more specifically address the administration of these credits under the mobility fee.~~

### **Sec. 159.102. Purpose and Intent.**

- (A) This article is intended to implement and be consistent with the goals, objectives, and policies of the City of Port St. Lucie Comprehensive Plan.
- (B) It is the purpose of this article to ensure ~~new Applicants development and redevelopment~~ mitigates ~~their~~ its impact to the City's multimodal capital improvement ~~multimodal transportation system~~ through payment of the City's mobility fee, so that development may occur in a manner consistent with the comprehensive plan and state law.
- (C) The purpose of this article is to regulate the use and development of land so as to assure that ~~new Applicants development and redevelopment~~ bears ~~their~~ its proportionate share of the cost of multimodal capital improvements that will be necessary to ~~provide multimodal improvements essential to~~ adequately serve the future extraordinary projected growth ~~increase~~ in person miles of travel and the increase in person travel demand ~~Person Travel Demand~~ needs of within the City and to implement the comprehensive plan.
- (D) The Florida Legislature, through the enactment of the Community Planning Act, Sections 163.3201 and 163.3202, Florida Statutes, and the Environmental Land and Water Management Act, Section 380.06(5), Florida Statutes, and the entirety of Chapters 163 and 380, respectively, encourages local governments to enact mobility fee systems as a part of their land development regulations to implement their comprehensive plans.
- (E) The Council hereby finds and declares that the mobility fees imposed pursuant to this article comply with the requirements of F.S. § 163.3180 and F.S. § 163.31801. Specifically, the requirements of F.S. § 163.31801, are fulfilled by the findings set forth in Section 159.104. All expenditures of ~~impact fees funds~~ shall be consistent with the principles set forth in Florida case law on ~~impact fees~~, including, but not limited to, *Board of County Commissioners v. Home Builders Association of West Florida, Inc.*, 325 So. 3d 981 (Fla. 1<sup>st</sup> DCA 2021), *Contractors and Builders Association v. City of Dunedin*, 329 So. 2nd 606 (Fla. 1976), *Hollywood, Inc., v. Broward County*, 446 So. 2nd 606 (Fla. 4th DCA 1983), and *Home Builders and Contractors Association of Palm Beach County, Inc. v. Board of County Commissioners of Palm Beach County*, 446 So. 2nd 140 (Fla. 4th DCA 1984), cert. denied, 451 So. 2nd 848 (Fla. 1984).

### **Sec. 159.103. Definitions.**

The Technical Report shall be referenced for definitions related to the Phase Two Mobility Plan and mobility fee ~~Mobility Fee~~ not addressed below. For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning, and shall control over any similar definition in the Technical Report:

**ADDITIVE FEE.** A mobility fee rate based on a unit of measure that generates high levels of person travel demand per unit such as service bays, car wash stalls, or fueling for motor vehicles or drive-thru lanes for banks, quick service restaurants, and pharmacies. Additive mobility fees per unit of measure are assessed in addition to mobility fees assessed per use based on square footage or the applicable unit of measure for the use.

**APPLICANT.** A person commencing a land development activity ~~or a change of use~~ or requesting approval of a ~~land development activity or a change of use~~ that results in an increase in ~~Person Travel Demand~~ person travel

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demand above the demand created by the current use of land. Applicant includes a person requesting approval of mobility fee credit independently of an application for development activity approval or change of use.

**ASSESSMENT AREA.** A geographic area or a unique development pattern such as mixed-use with a specific mobility fee rate per use assessed uniformly over the area that differs from other areas of the City. These areas have similar characteristics such as multimodal improvement needs, development patterns, mixture-of-uses, transportation network, master planning, or special district funding of multimodal capital improvements. The two assessment areas west of Interstate 95 feature common multimodal capital improvements that has been or will be constructed by private development entities. These areas also feature differing level of person travel demand based on person trips, person trip lengths, and internal capture.

**BENEFIT DISTRICT.** A geographic area where fees that are paid by the Applicant are expended on multimodal capital improvements within the district to provide a mobility benefit to the Applicant that paid the fees.

**BUILDING PERMIT.** Permits issued by the City, authorizing the construction or installation of buildings, structures, and other improvements including mobile homes and recreational vehicles.

~~**CAPITAL COST.** An expenditure which, under generally accepted accounting principles for local governments, would be considered a one-time multimodal capital expense or an expenditure that results in an increase multimodal person capacity or utilization.~~

~~**CAPITAL IMPROVEMENT.** Includes, but is not limited to, planning, engineering, design, surveys, inspection, drainage, traffic control devices, signage, testing, right-of-way acquisition, construction, landscaping, hardscape and streetscape, and other costs associated with the construction of bicycle lanes, dedicated transit lanes, greenways, hardscape, high-visibility crosswalks, lighting, intersections, micromobility lanes, micromobility ways, mid-block crossings, roads, roundabouts, shared mobility services and programs, shared-use paths, sidewalks, stormwater facilities, streets, streetscape, traffic signals, trails, transit circulators and transit facilities, and other multimodal transportation facilities that add or improve multimodal person travel capacity. Improvements may include payment of debt service used to advance multimodal improvements where future mobility fees were pledged as a funding source for the debt service and identified in either a Mobility Plan or Capital Improvements Plan.~~

**CITY MANAGER.** The City Manager of the City of Port St. Lucie, as defined in its City Charter, or a person or persons designated by the City Manager to carry out a function described in this article.

**COMPREHENSIVE PLAN.** The Comprehensive Plan of the City of Port St. Lucie, Florida, adopted pursuant to F.S. § 163.3161 et. seq.

**COUNCIL.** The City Council of the City of Port St. Lucie, Florida.

**DEVELOPMENT ACTIVITY.** New residential and non-residential construction, any new land development or site preparation activity, any new construction of buildings or structures, any modification, reconstruction, redevelopment, or upgrade of buildings or structures, any change of use of a building, land, or structure, and any special exception approval, variance, or special use permit that results in an increase in person travel demand above the demand generated by the existing use of property.

**DWELLING UNIT.** Single-family, active adult, and multi-family residential dwellings, attached and detached dwellings, houses of conventional or manufactured construction, and all other structures that may be used for permanent residence, regardless of whether occupied by a tenant or owner. Pursuant to the Technical Report, mobility fees shall be imposed per square foot, up to the maximum square foot, per dwelling unit.

**GROSS FLOOR AREA.** Total area (in square feet) of all floors of a structure that are within the principal outside faces of exterior walls including for example halls, stairways, corridors, lobbies, and elevator shafts, but excluding architectural setbacks or projections. Also includes areas where business is conducted outside the walls of the structure. If a site contains multiple buildings, the gross floor area shall be computed separately for each building.

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The definition of gross floor area (GFA) in the ITE trip generation manual shall be used to resolve any questions regarding calculation of gross floor area.

~~**LAND DEVELOPMENT ACTIVITY OR PROJECT.** A land development activity including any change in land use, or any construction of buildings or structures, or any change of use of any building or structure.~~

**PERSON.** Any individual, company, corporation, association, or other legal entity.

**MOTOR VEHICLE.** A car, SUV, truck, van, or motorcycle that is either electric powered, gasoline powered, a hybrid, or some other fuel source that propels the motor vehicle.

**MULTIMODAL.** Multiple modes of travel including, but not limited to walking, bicycling, jogging, rollerblading, skating, scootering, riding transit or a water taxi, driving a golf cart, low speed electric vehicle or motor vehicle.

~~**MULTIMODAL IMPROVEMENT.** Includes streets, sidewalks, alleys, highways, bike paths, multipurpose trail systems and other ways open to travel by the public including the roadbed, right of way, medians, traffic signalization, signage, landscape areas, culverts, drains, sluices, ditches, water storage areas, waterways, embankments, slopes, retaining walls, bridges, transit, and other related multimodal transportation facilities.~~

**MULTIMODAL PROGRAM.** That portion of the "Five Year Capital Improvement Program" identifying multimodal improvements with funding programmed from mobility fees, as that program may be amended from time to time.

**MULTIMODAL CAPITAL COST.** An expenditure which, under generally accepted accounting principles for local governments, would be considered a one-time multimodal capital improvement expense or an expenditure that results in an increase multimodal person capacity or utilization.

**MULTIMODAL CAPITAL IMPROVEMENT.** Includes, but is not limited to, planning, engineering, design, surveys, inspection, drainage, traffic control devices, signage, testing, right-of-way acquisition, construction, lighting, and other costs associated with the construction of bicycle lanes, boardwalks, corridors, dedicated transit lanes, greenways, hardscape, high-visibility crosswalks, landscaping, lighting, interchanges, intersections, mid-block crossings, mobility hubs, multimodal lanes and ways, multi-use paths, overpasses, pedestrian and vehicle signals, roads, roundabouts, shared mobility services and programs, sidewalks, stormwater management facilities, safety enhancements, streets, streetscape, traffic control devices, trails, transit circulators and transit facilities, underpasses, water taxi service and stops and other multimodal transportation facilities that add or improve multimodal person capacity. Improvements may include payment of debt service used to advance improvements where future mobility fees were pledged as a funding source for the debt service and identified in the Multimodal Program. All physical components of the construction of improvements such as mobilization, maintenance of traffic, clearing, grading, excavation, embankment, stabilization, bases, root barricades, friction courses, asphalt overlays, concrete, surface treatments, pavement markings, buffers, easements, medians, barriers, retaining walls, slopes, bridges, and structures. All stormwater conveyance and storage, such as curb and gutter, culverts, drains, swales, ditches, waterways, basins, retention, and any environmental or wetlands mitigation or remediation.

**MULTIMODAL PROGRAM.** That portion of the "Five Year Capital Improvement Program" identifying multimodal capital improvements with funding programmed from mobility fees, as that program may be amended from time to time and the multimodal capital improvements identified in the City's most recently adopted Mobility Plan and included in Mobility Fee calculations.

**NONRESIDENTIAL SQUARE FEET.** The gross floor area (in square feet) of all nonresidential floor levels under cover, including cellars, basements, mezzanines, penthouses, corridors, lobbies, stores, and offices, that are within the principal outside faces of exterior walls, not including architectural setbacks or projections. Floor levels include all areas that have floor surfaces with clear standing head room (six feet six inches, minimum) and are used as part of primary use of the property. If an area within or adjacent to the principal outside faces of the exterior walls is not enclosed, such as outdoor restaurant seating, areas used for storage of goods and materials, or merchandise display, and is determined to be a part of the primary use of property, this gross floor area is considered part of the overall nonresidential square footage of the building. Areas for parking, circulation, ingress, egress, buffers, conservation,

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walkways, landscape, stormwater management, and easements or areas granted for transit stops or multimodal parking are not included in the calculation of nonresidential square feet.

**RESIDENTIAL SQUARE FEET.** The area (in square feet) of each dwelling unit measured from the exterior surface of the exterior walls or walls adjoining public spaces such as multifamily or dormitory hallways, or the centerline of common walls shared with other dwelling units. Residential square feet include all livable, habitable, or temperature controlled enclosed spaces (enclosed by doors, windows, or walls) in a dwelling unit. Residential square feet does not include unconditioned garages or unenclosed areas under roof. For multifamily and dormitory uses, common hallways, lobbies, leasing offices, and residential amenities not accessible to the public are not included in the square feet calculation, unless that space is leased to a person who is not the owner of the residential building and who provides drinks, food, goods, or services either to the public or to paid memberships available to individuals that do not reside in a dwelling unit in the residential building.

**TECHNICAL REPORT.** The "City of Port St. Lucie Phase ~~Two~~ One Mobility Plan and Mobility Fee Technical Report, dated September ~~2022~~ 2024 and prepared by NUE Urban Concepts, LLC."

**PERSON MILES OF CAPACITY (PMC).** The number of persons of "capacity" that can be accommodated, at a determined standard, on a facility while walking, bicycling, riding transit or water taxis, driving, or using a mobility assisted device over a defined distance.

**PERSON MILES OF TRAVEL (PMT).** A unit used to measure person travel made by one person where each mile traveled is counted as one person mile. PMT is calculated by multiplying Person Trip Length by the number of Person Trips. The increase in future person miles of travel is used to plan multimodal capital improvement needs that form the basis for a mobility fee.

**PERSON TRAVEL DEMAND (PTD).** ~~Land Travel demand from development activity that demand based on can generate additional person travel or a change of use of land that can generate more person travel than the preexisting use. Person Travel Demand includes trip generation, internal capture, pass-by trips, internal capture, person trips, person trip length, external travel, and both the origin and destination of trips. production and attraction of traffic. The resulting mobility fees are roughly proportional to the person travel demand per use and assessment area provided on the mobility fee schedule.~~

**PERSON TRIP.** A trip by one person by one or more modes of travel including, but not limited to, driving a motor vehicle or low speed electric vehicle, riding transit, walking, bicycling or form of person powered, electric powered or gas powered device.

**PERSON TRIP LENGTH.** The length, in miles, of a person trip per trip purpose.

**TRIP.** Travel between locations, often times between an origin, such as a home, to a destination, such as a business, but the trip can end and begin at the same location, such as walking a dog in the neighborhood where the home is both the origin and destination.

**TRIP GENERATION MANUAL.** The report entitled "Trip Generation Manual" of the Institute of Transportation Engineers, latest edition. Official updates to the Trip Generation Manual may be accepted and used by the City as appropriate.

**TRIP PURPOSE.** The primary purpose at the destination of a trip such as travel to buy goods, services, or meals, entertainment, recreation, school, work, places of assembly, errands, medical, day care, or work related. Trip purpose may be either home based, meaning the trip originates at a residence, or non-home based, meaning the trip originates at a destination other than a residence.

**VEHICLE MILES OF TRAVEL (VMT).** A unit used to measure vehicle travel made by a motor vehicle where each mile traveled is counted as one vehicle mile regardless of the number of persons in the vehicle. VMT is calculated by multiplying the length of a road segment by the total number of vehicles on that road segment.

**VEHICLE TRIP.** A trip by a single motor vehicle, regardless of the number of persons in the motor vehicle.

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## Sec. 159.104. Findings and Declarations.

- (A) It is the policy of the City to provide for ~~multimodal multi-modal~~ mobility on a City-wide basis. The Council hereby finds that ~~development activity new development~~ in the City requires additional ~~multimodal capital improvements multimodal transportation improvements and~~ services to address its mobility demands.
- (B) The Council hereby finds that the use of impact fees to achieve and maintain state roadway levels of service for automobiles has resulted in multi-lane, congested roadways in urban areas to the exclusion of other modes of transportation.
- (C) The Council finds that it is in the best interests of the City to replace its transportation concurrency and road impact fee system for transportation facilities with a mobility fee system.
- (D) The Council finds that the Florida Department of Economic Opportunity's Community Planning, Development and Services Division encourages the adoption of mobility fees in lieu of traditional road impact fees.
- (E) The Council finds that the Technical Report is based upon the most recent and localized data and provides the technical analysis necessary for the Council to determine the mobility fee, based on the ~~multimodal capital improvements multimodal improvements~~ identified in the mobility plan, constitutes a proper factual predicate for imposition and expenditure of the mobility fees.
- (F) The Council has determined herein to account for and provide for a separate accounting fund for the collection of mobility fees, and to separately account for expenditure of such mobility fees to address its ~~multimodal capital improvements mobility infrastructure~~ needs.
- (G) The Council has determined herein to limit administrative charges for mobility fee collection to actual costs.
- (H) The Council has determined not to require the payment of the mobility fee earlier than the date on which the application was determined complete of the building permit for the property subject to such mobility fee.
- (I) The Council finds that the Technical Report provides that the mobility fee is proportional and reasonably connected to or has a rational nexus with, the need for additional ~~multimodal capital improvements mobility infrastructure~~ and the increased person travel demand ~~Person Travel Demand~~ generated by the new residential or commercial construction.
- (J) The Council finds that the Technical Report provides that the mobility fee is proportional and reasonably connected to or has a rational nexus with, the expenditure of funds for such ~~multimodal capital improvements mobility infrastructure~~ and the benefits accruing to the new residential or nonresidential construction.
- (K) The Council has determined to specifically earmark the mobility fees collected for use in acquiring, constructing, or improving ~~capital mobility and~~ multimodal capital improvements to benefit new users.
- (L) The Council has determined that the revenues generated by the mobility fee will not be used in whole or in part to pay existing debt service for previously approved projects unless the expenditure is reasonably connected to, or has a rational nexus with, the increased person travel demand ~~Person Travel Demand~~ generated by the new residential or non-residential construction.
- (M) For those mobility fees that may result in a fee increase, the Technical Report has been prepared within twelve (12) months prior to the adoption of the mobility fee establishing that extraordinary circumstances exist, based on projected extraordinary increases in future person travel demand ~~Person Travel Demand~~, that will necessitate ~~multimodal capital improvements multimodal improvements~~ to accommodate that demand, such that an increase in mobility fees for certain uses above current road impact fees is required, and notice was provided at least ninety (90) days prior to the effective date of any increased impact mobility fees, two publicly noticed workshops were held, and the ordinance adopting the mobility fee was adopted by a 2/3 vote of the Council.

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- (N) Unless the result is to reduce the total mitigation costs or impact fees imposed on an Applicant, new or increased mobility fees will not apply to current or pending permit applications submitted before the effective date of the ordinance imposing a new or increased fee.
- (O) Any contribution, whether identified in a proportionate share agreement or other form of exaction, related to multimodal capital improvements public facilities or infrastructure for mobility, including land dedication, site planning and design, or construction that is included in the calculation of mobility fees will be credited against the collection of the mobility fee, on a dollar-for-dollar basis at fair market value.
- (P) The holder of any road impact fee credits with the City, whether such credits are granted under s. 163.3180, s. 380.06, or otherwise, will mitigate its impact and utilize its credit towards payment of road impact fees based on the last adopted road impact fee schedule per the applicable rates in the schedule. ~~to which were in existence before any increase, is entitled to the full benefit of the intensity or density prepaid by the credit balance as of the date it was first established.~~
- (Q) Road impact fee credits shall be utilized to pay the assessed road impact fees for the development entities that were granted the credit by the City. Those credits may be assigned or transferred per the developer agreement between the City and the development entity. Once a development entity has fully utilized its City road impact fee credits, the entity, or its successor in interest, shall pay the mobility fee rate in effect at the time the Applicant applies for a permit. ~~are assignable and transferable at any time after establishment from one development or parcel to any other that is within the same mobility fee benefit district, or that is within an adjoining mobility fee benefit district of the City (except for the East benefit district because the improvements for which these credits were issued did not benefit the East benefit district), and which receives benefits from the improvement or contribution that generated the credits, regardless of when the credits were established.~~
- (R) The City shall collect a County road impact fee per the from new development Absent a mobility fee interlocal agreement between the City and County. the City shall not allow the use of County road impact fee credits to address the assessed County road impact fee unless authorized by the County. The Applicant shall coordinate County road impact fee credit utilization with the County. The City shall set aside a portion of the mobility fees collected, except where an applicant utilizes equivalent mobility fee credit to satisfy impacts to County facilities, to fund County road improvements identified in the phase one mobility plan. These funds will be maintained in a separate fund account for each of the five (5) City benefit districts and will be provided to the County, upon request, once the County has commenced design and or construction of an improvement identified in the phase one mobility plan. Mobility fee revenues collected from mobility fee benefit districts west of Interstate 95 and set aside for County roads shall only be expended on Midway Road, Glades Cut Off, and Range Line Road. Mobility fee revenues collected from the East mobility fee benefit district and set aside for County roads shall only be expended on Midway Road east of Interstate 95, Prima Vista Blvd, and Walton Road. The portion shall be determined based on the data contained in the Technical Report.
- (S) In limited instances, the Council, at its discretion, may reallocate County Road impact fee credits to pay down City Road impact fees based on the last adopted City Road impact fee schedule. Applicants meeting the following criteria are entitled to apply to Council for approval to reallocate County Road impact fee credits:
- (1) Applicant holds County road impact fee credits (existing or contingent) originating from a County road impact fee credit agreement established on or prior to October 1, 2021; and
  - (2) The development entity that generated the applicable credits (recognizing an Applicant may be a successor in interest) constructed improvements on City roads and has only received County Road impact fee credits and has not yet received any City Road impact fee credits for those improvement on City roads; and
  - (3) Applicant, or its predecessor(s) in interest, has not previously obtained approval from Council to reallocate the applicable credits.

The City will require that an agreement be entered into between the County, City and Applicant to identify the terms of an approved reallocation in a form agreeable to the City Attorney, prior to reallocated credits being

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available for use by the Applicant. The agreement must include, but will not be limited to, (i) consent to the reallocation by the County, and (ii) an accounting of how the applicable County Road impact fee credit will be reduced by the same amount as City Road impact fee credit granted through the reallocation.

There are limitations on applications for reallocations. No applications for reallocation shall be accepted for filing if all or any portion of the County Road impact fee credits subject to the application were part of a previous application which meets any of the following conditions:

- (1) An application for the same County Road impact fee credits was denied by the Council within the previous 12-month period;
- (2) An application for the same County Road impact credits was allowed to be withdrawn by the Council within the previous 12-month period.

The time limits set forth above may be waived by the City Manager when waiver is deemed necessary to prevent injustice or to facilitate the proper development of the City. An Applicant aggrieved by a waiver determination made by the City Manager shall have the right to appeal to the Council.

~~(T)~~(S) Audits of the City performed pursuant to F.S. § 218.39, will include an affidavit from the chief financial officer of the City stating that the City has complied with F.S. § 163.31801.

### **Sec. 159.105. Imposition of Mobility Fee.**

- (A) ~~Effective October 1, 2022, Applicants shall be required to pay a mobility fee in the manner and amount set forth in this article. 5, 2021 or, in order to provide sufficient notice as required by Florida Statutes, for any mobility fee increase that may result in an increase, effective January 1<sup>st</sup>, 2023-3<sup>rd</sup>, 2022, any person that seeks to make improvements to land which can generate additional Person Travel Demand and which requires the issuance of a building permit or certificate of occupancy or other development permit, or who seeks to change the use of land to a use which can produce or attract additional Person Travel Demand, shall be required to pay a mobility fee in the manner and amount set forth in this article.~~
- (B) ~~No Applicant's development activity shall be approved building permit, certificate of occupancy or other development permit shall be issued or change of use allowed unless and until the mobility fee hereby required has been paid.~~
- (C) ~~The Applicant shall pay the applicable mobility fee to the City no earlier than the issuance of a building permit or functional equivalent for development activity not requiring a building permit. The Applicant shall pay the mobility fee to the City prior to the issuance of such building permit or development activity approval. a building permit, or to a change of use. The City Manager, in limited instances, such as request for credit, dispute, or a unique land use, may allow permit payment of the mobility fee prior to issuance of a certificate of occupancy, or other development activity approval permit established in writing that specifies the type of approval permit and timing. A letter shall be issued by the City, upon satisfaction of the assessed mobility fee, that states payment of the mobility fee to the City, and or use of credit, addresses the full impact of the proposed land development activity.~~
- (D) ~~If mobility fees are owed, no development activity approvals permits of any type or certificates of occupancy may be issued for the building or structure in question and no construction or change of use allowed while the mobility fee remains unpaid. The City Manager may authorize the initiation of any action as permitted by law or equity to collect the unpaid fees.~~
- (E) A violation of this article is punishable as an ordinance violation as provided in the City Charter and City Code. In addition to or in lieu of any criminal prosecution, the City has the power to sue for relief in civil court to enforce the provisions of this article. Knowingly furnishing false information to the City Manager or any



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municipal official who is charged with the administration of this article on any matter relating to the administration of this article constitutes a violation hereof.

- (F) ~~The City shall no longer collect the County's a-road impact fee for development activity per the interlocal agreement between the City and County. new development, redevelopment or change of use that results in an increase in Person Travel Demand over the existing use of land on behalf of St. Lucie County effective October 5<sup>th</sup>, 2021. The mobility fee has been developed to fully mitigate the Person Travel Demand impact of new development, redevelopment or change of use on the City, County, and State road systems within and around the City per the methodology pursuant to the adopted Technical Report.~~
- (G) ~~The assessment of City Road impact fees on building permits or changes of use applications shall end for any application made~~ development activity applications shall only be applicable for development entities with a City road impact fee credit agreement between the City and the development entity. Development entities shall enter into a true-up City road impact fee credit agreement with the City no later than six (6) months after October 1<sup>st</sup>, 2022. This deadline may be extended due to extraneous circumstances at the discretion of the City Manager. After the six (6) month period, if the Applicant has not been granted an extension of the true-up period, and if a true-up agreement is not adopted by the City, then the development entity would be required to pay mobility fees for all development activity applications until such time as an agreement is adopted. There shall be no retroactive application of City road impact fee credits. Any development activity application that is not authorized to utilize City road impact fee credit shall be required to pay the applicable mobility fee. There shall be no retroactive application of City road impact fee credits for uses not previously authorized to utilize road impact fee credits. on or after October 5<sup>th</sup>, 2021. Any road impact fees previously collected shall be expended on capital road improvements listed in the Multimodal Program. Any City road impact fee assessments on a building permit or change of use made before October 5<sup>th</sup>, 2021 shall apply, unless the building permit or change of use request expires or an applicant voluntarily elects to be reassessed a mobility fee instead of a City road impact fee. For any mobility fee which is less than the City road impact fee, an applicant shall have the right to request assessment of the lower mobility fee, in lieu of the higher road impact fee. All legal and statutory requirements related to the collection, expenditure, tracking, and use of City road impact fees shall apply until all road impact fee funds are expended or returned to the applicant.
- (H) Any application made prior to October 1<sup>st</sup>, 2022, shall pay the assessed mobility fee, unless the building permit or development activity approval expires. Applicants reapplying for an expired permit or approval shall be required to pay the mobility fees in effect at the time of the re-application for an expired permit or approval.
- (I) Any building permits that were assessed a City road impact fee that have not expired shall pay the assessed City road impact fee. Any collected City road impact fees or previously collected City road impact fees shall be expended on those on those road capacity improvements listed in the Multimodal Program that were eligible for City road impact fee credit or expenditure. All legal and statutory requirements related to the collection, expenditure, tracking, and use of City road impact fees shall apply until all City road impact fee funds are expended or returned to Applicants.
- (J) The City Manager, in consultation with the City Attorney's office, shall have the ability to act regarding the imposition of the fee, payment of the fee, determination of credit or off-set utilization, or other such action to ensure that the mobility fee meets all legal and statutory requirements and to address unique circumstances that may arise for time to time that are not expressly addressed herein.

### **Sec. 159.106. Exemptions.**

The following shall be exempt from payment of the mobility fee:

- (A) Alterations or expansion of an existing building or structure or a change of use where no additional livable square footage, excluding bathrooms, kitchens, or accessibility improvements for mobility impaired persons, will be produced, where the use will not be changed, and where no additional person

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~~travel demand~~ ~~Person Travel Demand~~ will be generated above ~~over and above those that~~ generated by the existing building, structure, or use.

- (B) The construction of accessory buildings or structures or a change of use which will not produce additional ~~person travel demand~~ ~~Person Travel Demand~~ above ~~over and above those that~~ produced by the principal building or use of the land.
- (C) The replacement of a demolished or partially demolished building or structure with a new building or structure which will not generate additional ~~person travel demand~~ ~~Person Travel Demand~~ above ~~over and above those that~~ generated by the original building or structure, provided that there is no change of use of the land and that the new building or structure is permitted.
- (D) Any claim of exemption must be made no later than the time of application for a building permit for construction or development activity approval ~~a certificate of occupancy for a change of use~~.
- (E) The City Manager, in consultation with the City Attorney's office, shall have the ability to act regarding declaring or revoking an exemption of the fee to ensure that the exemption or denial of an exemption meets all legal and statutory requirements and to address unique circumstances that may arise for time to time that are not expressly addressed herein. Any request for exemptions shall be supported by convincing and competent evidence provided by the Applicant at the time of the request.

### **Sec. 159.107. Accounting and Use of Funds, and Benefit Districts.**

- (A) All funds collected from mobility fees shall be used solely for multimodal capital improvements listed in the Multimodal Program, as may be amended. The mobility fee amounts collected may include an additional charge not to exceed actual cost ~~three (3) percent~~ to offset the costs of administering, updating, maintaining, and enforcing this article. Additional fees may also be established associated with a specific application request such as conducting an independent mobility fee study. The service charge and fees shall be based on actual costs. The service charge and fees may be established by resolution of the Council as necessary to conform to this paragraph based on a technical study establishing actual cost. Alternatively, any application fees may also be included in the City's resolution for application fees related to City functions. Any such administrative service charge and application fee imposed by the City is in addition to the mobility fees due, is nonrefundable, is payable at the time of payment of mobility fees, and may include, but is not limited to, costs associated with consultants, administrative staff, equipment, software, and other associated expenses.
- (B) The City shall ensure that payers of the mobility fee receive benefit of funds collected, consistent with the requirements of F.S. § 163.3180 and F.S. § 163.31801.
- (C) A total of six (6) ~~five (5)~~ mobility fee benefit districts are hereby established, consistent with the benefits requirement of the dual rational nexus test, to ensure that development which pays a mobility fee receives a mobility benefit from payment of the mobility fee. The following are the six (6) ~~five (5)~~ mobility fee districts, as illustrated on the Mobility Fee Benefits District Map in the Technical Report:
  - (1) Northeast ~~East~~ Benefit District (predominately east of Interstate 95 and north of Crosstown Parkway);
  - (2) Southeast Benefit District (predominately east of Interstate 95 and south of Crosstown Parkway);
  - ~~(3)(2)~~ Glades Benefit District (predominately along Glades Cut-off from Midway to the C 24 Canal);
  - ~~(4)(3)~~ Village Parkway Tradition-Benefit District (between I-95 and Village Parkway, south of Crosstown Pkwy);
  - ~~(5)(4)~~ Northwest Benefit District (south of Midway and predominately west of Glades Cut-off); and
  - ~~(6)(5)~~ Southwest Benefit District (south of C 24 Canal, east of Glades Cut-off, west of Village Pkwy).

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- (D) In recognition that person travel demand along certain mobility and multimodal corridors provides a mobility benefit beyond the limits of a single mobility fee benefit district, the following are limited instances in which mobility fees may be expended on corridors from multiple benefit districts:
- (1) The City may spend mobility fees on corridors from adjacent benefit districts if the corridors form a boundary between benefit districts.
  - (2) The City may spend mobility fees from adjacent benefit districts where a corridor traverses or is planned to traverse the boundary of one or more benefit districts. For purposes of traversing corridors, Gatlin Blvd, Port St. Lucie Blvd, Tradition Parkway, and the extension of Tradition Parkway shall be considered a unified corridor.
  - (3) In recognition of the citywide mobility benefit provided by the Crosstown Parkway and the fact that it traverses or forms a boundary with five (5) four (4) benefit districts and is less than one (1) mile south of the Northwest Benefit District, mobility fees may be expended from all benefit districts for improvements within the existing or future Crosstown Parkway.
  - (4) The City may spend mobility fees from the Northeast and Southeast benefit districts where a corridor traverses or is planned to traverse the boundary of either or both benefit districts or is part of a continuous principal or major multimodal corridor. Major corridors that traverse both benefit districts, include, but are not limited to, Airoso Blvd, Bayshore Blvd, C-24 Canal Greenway, Cashmere Blvd, California Blvd, East Torino Parkway (unified corridor with Cashmere Blvd), Floresta Blvd, Savona Blvd (unified corridor with California Blvd), Selvitz Road (unified corridor with Bayshore Blvd), Village Green Drive (as an extension of the Crosstown Parkway), and US Hwy 1.
  - (5) Multimodal crossings (overpass and underpass) and new bridges or interchanges over Interstate 95 or the Florida Turnpike that connect corridors that traverse multiple benefit districts may utilize funds from the benefit districts that receive a mobility benefit from these connections.
  - ~~(6)~~(4) Any use of mobility fee revenues from an adjacent benefit district as permitted in this section 159.107 (D) shall require a written finding that the use of mobility fee funds in an the adjacent benefit district provides a direct mobility benefit to development within the benefit district that is the source of the revenues. Given the extent of the multimodal capital improvement infrastructure need within the Northeast and Southeast East benefit district, additional documentation shall demonstrate that other funds are not reasonably available before funds from the either East benefit district can be expended in an adjacent benefit district west of Interstate 95. City Council approval shall also be required for the expenditure of mobility fee funds from either the East benefit district within an adjacent benefit district west of Interstate 95.
  - ~~(7)~~(5) The City shall be permitted to make a finding that an a multimodal capital improvement identified in the Multimodal Program provides a mobility benefit to development within multiple benefit districts and that, due to circumstances documented in the finding, there is a need to utilize mobility fees from multiple benefit districts to fund the multimodal capital improvement. The finding shall be required to demonstrate how the use of funds from one benefit district on an a multimodal capital improvement in another benefit district meets the benefits requirement of the dual rational nexus test. City Council approval shall also be required for the expenditure of mobility fee funds from the East benefit districts within another benefit district.
  - (8) The City Attorney's Office shall review and concur with a finding that a fee may be expended in a different district than the one from which it was collected, before review and approval by the City Manager of the finding. Council approval shall also be required for the expenditure of mobility fee funds from the Northeast or Southeast benefit districts within a benefit district west of Interstate 95.
- (E) All mobility fee funds collected by the City shall be placed in an interest-bearing separate accounting fund until such time as the expenditures authorized by this article will take place. Interest proceeds from these funds will accrue to the separate accounting fund. Mobility fee funds shall be used only for those multimodal capital improvements specified in the Multimodal Program and within the benefit district in which they are collected,
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except as provided for in Section 159.107(D). Mobility fees shall not be used for periodic or routine maintenance as defined in F.S. § 334.03(18) and (23).

- (F) The City may use funds for multimodal capital improvements multimodal improvements on County and State Roads that are specified in the Multimodal Program. Funding of roadway capacity improvements on County Roads is addressed through the assessment of a portion of the County's road impact fee within the City per the Absent a mobility fee interlocal agreement between the City and County. ,the City shall:
- ~~(1) Reserve a portion of the mobility fees collected, to be determined based on the data contained in the Technical Report, except where an applicant utilizes equivalent mobility fee credit to satisfy impacts to County facilities, to fund County road improvements identified in the phase one mobility plan;~~
  - ~~(2) Place these funds in an interest-bearing separate accounting fund designated for County roads, with one account for each of the five (5) benefit districts;~~
  - ~~(3) Provide these funds to the County, upon request, once the County has commenced design or construction of an improvement identified in the phase one mobility plan. as follows:~~
    - ~~(i) Mobility fee revenues collected from the East mobility fee benefit district and set aside for County roads shall only be expended on Midway Road east of Interstate 95, Prima Vista Blvd, and Walton Road;~~
    - ~~(ii) Mobility fee revenues collected from the Glades, Tradition, Northwest, and Southwest mobility fee benefit districts and set aside for County roads shall only be expended on Midway Road, Glades Cut-Off, and Range Line Road;~~
  - ~~(4) Should the County not commence design or construction of an improvement to County roads within (5) years from the date a mobility fee is collected, then the mobility fee shall be returned to the benefit district from which it was collected and be programmed for expenditure within a two (2) year period within that benefit district to ensure the City is consistent with the provisions of section 159.112; and~~
  - ~~(5) Should the City and County enter into an adopted mobility fee interlocal agreement, then that agreement shall control over this section 159.107 (F).~~
- (G) Audits of the City performed pursuant to F.S. § 218.39, shall include an affidavit from the chief financial officer of the City stating that the City has complied with F.S. § 163.31801.

### **Sec. 159.108. Mobility Fee Schedule.**

- (A) The amount of the mobility fee shall be determined by the applicable adopted mobility fee. The ~~2022~~ ~~2021~~ mobility fee schedule in Table 159.108.1 is effective October ~~1<sup>st</sup>, 2022.~~ ~~5<sup>th</sup>, 2021.~~ The mobility fee schedule in Table 159.108.2 is an addendum to the 2021 schedule to be effective January 3, 2022. The two schedules will be combined into a uniform schedule as of October 1<sup>st</sup>, 2022 when mobility fees are adjusted for inflation.
- (B) The mobility fee schedule includes three (3) assessment areas with varying mobility fee rates per the applicable unit of measure. The following three (3) assessment areas are illustrated on the Mobility Fee Assessment Areas Map in the Technical Report with a general location described below:
- (1) East Assessment Area (east of Interstate 95),
  - (2) Southwest Assessment Area (west of Interstate 95, south of C-24 Canal, east of Glades-Cut-Off),
  - (3) Northwest Assessment Area (south of Midway Road, west of Interstate 95, north of C-24 Canal between Interstate 95 and Glades Cut-Off, west of Glades-Cut-Off south of the C-24 canal),
  - (4) Each Assessment Area includes an expansion area that would enable the assessment of mobility fees to areas that annex into the City. In conjunction with future Technical Report updates, that Assessment Areas map shall be updated to incorporate any annexed areas,

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(5) Mobility fees are only assessed by the City of Port St. Lucie within the municipal limits of the City. Any areas illustrated on the Assessment Areas map that are within unincorporated St. Lucie County or Ft. Pierce would not be assessed a mobility fee, unless they annex into the City and undertake a development activity that requires payment of a mobility fee.

(C)(B) The City Manager or designee shall determine the applicable land use type.

(1) The assessed mobility fee shall be based on the applicable unit of measure per the mobility fee rate for the closest comparable use, within the assessment area in which the development activity is located within. Additive mobility fees shall be assessed, per the applicable unit of measure, in addition to the mobility fee rate due for the building, structure, or development activity use.

(2)(1) If a building or structure is requested for mixed uses, then the mobility fee shall be determined for each use using the applicable mobility fee schedule and the appropriate unit of measure on the mobility fee schedule.

(3)(2) If the type of development activity for which a building permit is applied or change of use is not specified on the applicable mobility fee schedule, the City Manager shall use the mobility fee applicable to the most nearly comparable type of land development on the mobility fee schedule per the definition of each use. The City Manager shall be guided in the selection of a comparable type of land use development by the Trip Generation Manual.

(D)(C) In the case of a change of use, redevelopment, or modification of an existing use the mobility fee shall be based upon the net increase in the mobility fee for the new use as compared to the previous use in accordance with the mobility fee schedule. No mobility fee refund will be granted if a net decrease results.

(E) Any request to utilize mobility fee credit, City road impact fee credit (per an approved developer credit agreement) or to receive an offset based on a change of use, redevelopment, or modification of an existing use, shall be made in writing and submitted along with a credit or offset application to the City prior to submitting an application for development activity.

(1) Request to use credit or an offset shall not be permitted after an application for development activity approval has been submitted.

(2) The City Manager may allow submittal of a development activity application once the City has received a written request and application for credit or an offset and has provided a written response to the Applicant indicating they may submit said application pending final review of the request.

(3) No development activity approval requiring payment of a mobility fee shall be issued until a determination has been made by the City Manager regarding the request or the City Manager details in writing under what conditions approval may be granted.

(F)(D) If the mobility fee has been calculated and paid based on error or misrepresentation, it will be recalculated, and the difference refunded to the original Applicant. If mobility fees are owed, no permits of any type may be issued for the building or structure in question, or for any other portion of a development of which the building or structure in question is a part, until mobility fees are paid.

(G)(E) The Applicant may submit evidence to the City Manager demonstrating that the mobility fees set out in subsection (A) are not reasonable when applied to the particular project. Based upon convincing and competent evidence, the City Manager may adjust the mobility fee to be reasonable for the particular project.

(H)(F) The Applicant may provide a schedule and method for payment of the mobility fees in a manner appropriate to the particular circumstances of the proposed development in lieu of the requirements for payment of the mobility fees as set forth in section 159.105, hereof; provided that the City receives acceptable security ensuring payment of the mobility fees prior to the issuance of approval of development activity—building permit, certificate of occupancy, or other permit. Such security may take the form of a cash bond, surety bond, irrevocable letter of credit, or a negotiable certificate of deposit. Liens or mortgages on lands to be covered by the development activity approval—building permit are not acceptable. Any agreement proposed by an

Applicant pursuant to this subsection must be approved by the Council prior to the issuance of the development activity approval building permit, certificate of occupancy, or other permit. The Council may approve such agreements only if it finds that the agreement will apportion the burden of new mobility and multimodal capital improvements facilities in a just and equitable fashion, consistent with the Florida statutory and case law.

- (I) The City Manager may authorize City initiated updates of the mobility fee schedule to ensure that mobility fees meet legal and statutory requirements. Updates may be required based on the availability of additional funding or the removal of multimodal capital improvements that is ten (10) percent or more of the total cost of the multimodal capital improvements identified in the mobility plan. Further updates may be required due to updates of technical documents such as the ITE Trip Generation Manual, the Highway Capacity Manual, or the National Household Travel Survey or adoption of an updated Long Range Transportation Plan and Regional Travel Demand Model that results in a significant change in needed multimodal capital improvements that is ten (10) percent or more of the total person miles of capacity, person miles of travel, or person travel demand in the Technical Report.
- (J) The City Manager, in consultation with the City Attorney’s office, shall have the ability to act regarding determination of use, request to reconsider determinations, use of credit or off-sets, acceptance of alternative studies, payment of the fee, timing of payment, updates of the fee and to address unique circumstances that may arise for time to time that are not expressly addressed herein, consistent with legal and statutory requirements.

TABLE 159.108.1

The following mobility fee schedule shall be effective October 1<sup>st</sup>, 2022, for all development order approvals except those permitted to use City road impact fee credits per a developer agreement between the City of Port St. Lucie and a Development entity.

<b>City of Port St. Lucie Mobility Fee Schedule</b>			
<b>Use Categories, Use Classifications, and Representative Uses</b>	<b>Assessment Areas</b>		
	<b>EAST</b>	<b>SW</b>	<b>NW</b>
<b>Residential &amp; Lodging Uses per sq. ft., or <u>the applicable unit of measure listed</u></b>			
Single-Family Residential <del>per sq. ft.</del> (Maximum 3,500 sq. ft.) <sup>1</sup>	<u>\$1.60</u>	<u>\$1.13</u>	<u>\$1.42</u>
Active Adult (55+) Residential <del>per sq. ft.</del> (Maximum 3,500 sq. ft.) <sup>1</sup>	<u>\$1.45</u>	<u>\$1.03</u>	<u>\$1.29</u>
Multi-Family Residential <del>per sq. ft.</del> (Maximum 2,500 sq. ft.) <u>for 2 floors or less, Maximum 1,000 sq. ft. for 3 or more floors</u> <sup>1</sup>	<u>\$2.65</u>	<u>\$1.87</u>	<u>\$2.34</u>
Overnight Lodging (Hotel, Inn, Motel, Resort) per room <sup>2</sup>	<u>\$1,998</u>	<u>\$1,409</u>	<u>\$1,770</u>
Mobile Residence (Mobile Home, Recreational Vehicle, <u>Tiny Home on Wheels, Travel Trailer</u> ) per space or lot <sup>2</sup>	<u>\$1,605</u>	<u>\$1,132</u>	<u>\$1,422</u>
<b>Institutional Uses per sq. ft.</b>			
Community Serving (Civic, Place of Assembly, Museum, Gallery)	<u>\$1.99</u>	<u>\$1.48</u>	<u>\$2.21</u>
Long Term Care (Assisted Living, Congregate Care <del>Facility</del> , <u>Nursing Home Facility</u> )	<u>\$1.11</u>	<u>\$0.79</u>	<u>\$0.99</u>
Private Education (Child Care, Day Care, Private School K-12, Pre-K)	<u>\$2.14</u>	<u>\$1.60</u>	<u>\$1.89</u>
<b>Industrial Uses per sq. ft.</b>			

Industrial (Assembly, Fabrication, Manufacturing, R&D, Trades, Utilities)	\$0.70	\$0.55	\$0.74
Commercial Storage (Mini-Warehouse, Boats, <u>Cars</u> , RVs, & Outdoor Storage, Warehouse) <sup>3</sup>	\$0.56	\$0.44	\$0.59
Distribution Center (Cold Storage, Fulfillment Centers, High-Cube)	\$0.45	\$0.36	\$0.48
<b>Recreational Uses per sq. ft., or the applicable unit of measure listed unless otherwise indicated</b>			
Marina (Including dry storage) <i>per berth</i> <sup>2</sup>	\$663	\$487	\$704
Outdoor Commercial Recreation ( <u>Amusement</u> , <u>Courts</u> , Golf, <u>Fields</u> , Multi-purpose, <u>Performance Venues</u> , <u>Ranges</u> , Sports, Tennis) <i>per acre</i>	\$2,189	\$1,692	\$2,327
Indoor Commercial Recreation (Fitness, Gym, Health, <del>and</del> <u>Kids Activities</u> , <u>Ranges</u> , Sports, Recreation)	\$3.45	\$2.67	\$3.67
<b>Office Uses per sq. ft.</b>			
Office (Bank, Dental, <u>Financial Services</u> , General, Higher Education, Hospital, Medical, Professional, <u>Research</u> , <u>Technical</u> )	\$2.66	\$2.12	\$2.85
Free-Standing Medical Office (Clinic, Dental, Emergency Care, Medical, <u>Physical Therapy</u> , <u>Outpatient Facility</u> , Veterinary)	\$4.46	\$3.61	\$4.69
<b>Commercial Services &amp; Retail Uses per sq. ft.</b>			
Local Retail [ <i>Non-Chain or Franchisee</i> ] (Entertainment, Restaurant, Retail, Services) <sup>4</sup>	\$2.39	\$1.65	\$2.02
Multi-Tenant Retail (Entertainment, Restaurant, Retail, Services) <sup>5</sup>	\$4.78	\$3.30	\$4.05
Free-Standing Retail (Entertainment, Restaurant, Retail, Services) <sup>6</sup>	\$6.53	\$4.50	\$5.53
<b>Additive Fees for Commercial Services &amp; Retail Uses per the applicable unit of measure listed <sup>7-8</sup></b>			
Bank Drive-Thru Lane or Free-Standing ATM <sup>8-9</sup> <i>per lane or per ATM</i>	\$15,711	\$10,868	\$12,234
<del>Motor Vehicle Service Quick Lube (Maintenance, Quick Lube, Service, Tires) <sup>9-10</sup> <i>per service-bay</i></del>	\$5,926	\$4,244	\$5,229
Motor Vehicle & Boat Cleaning (Detailing, Wash, Wax) <sup>9-11</sup> <i>per lane or stall</i>	\$13,857	\$9,962	\$12,227
Motor Vehicle Charging or Fueling <sup>10-12</sup> <i>per charging or fueling position</i>	\$12,793	\$9,197	\$11,288
<del>Motor Vehicle Service Quick Lube (Maintenance, Quick Lube, Service, Tires) <sup>11-10</sup> <i>per service-bay</i></del>	\$5,993	\$4,308	\$5,288
Pharmacy drive-thru <sup>12-13</sup> <i>per lane</i>	\$10,575	\$7,603	\$9,331
Quick Service Restaurant Drive-Thru Lane <sup>13-14</sup> <i>per lane</i>	\$30,012	\$18,971	\$25,517
<b>Footnotes provided in Table 159.108.3</b>			

City of Port St. Lucie Mobility Fee Schedule		
Use Categories, Use Classifications, and Representative Uses	East Of	West Of

	<b>St. Lucie River</b>	
<b>Residential &amp; Lodging Uses per sq. ft. or applicable unit of measure</b>		
Single Family Residential <i>per sq. ft. (Maximum 3,500 sq. ft.)</i> <sup>3</sup>	\$1.456	\$1.775
Active Adult (55+) Residential <i>per sq. ft. (Maximum 3,500 sq. ft.)</i> <sup>3</sup>	\$1.278	\$1.558
Multi Family Residential <i>per sq. ft. (Maximum 2,500 sq. ft. for 2 floors or less, Maximum 1,000 sq. ft. for 3 or more floors)</i> <sup>1</sup>	\$2.321	\$2.830
Overnight Lodging (Hotel, Inn, Motel, Resort) <i>per room</i> <sup>2</sup>	\$1,797	\$2,192
Mobile Residence (Mobile Home, Recreational Vehicle, Travel Trailer) <i>per space or lot</i> <sup>2</sup>	\$1,477	\$1,801
<b>Institutional Uses per sq. ft.</b>		
Community Serving (Civic, Place of Assembly, Museum, Gallery)	\$1.670	\$2.083
Long Term Care (Assisted Living, Congregate Care Facility, Nursing Facility)	\$1.336	\$1.560
Private Education (Child Care, Day Care, Private School K-12, Pre-K)	\$1.920	\$2.241
<b>Industrial Uses per sq. ft.</b>		
Industrial (Assembly, Fabrication, Manufacturing, R&D, Trades, Utilities)	\$0.782	\$1.083
Commercial Storage (Mini-Warehouse, Boats, RVs & Outdoor Storage, Warehouse) <sup>2</sup>	\$0.703	\$0.836
Distribution Center (Cold Storage, Fulfillment Centers, High-Cube)	\$0.574	\$0.682
<b>Recreational Uses per sq. ft., unless otherwise indicated</b>		
Marina (Including dry storage) <i>per berth</i> <sup>2</sup>	\$570	\$741
Outdoor Commercial Recreation (Golf, Multi-purpose, Sports, Tennis) <i>per acre</i>	\$2.076	\$2.510
Indoor Commercial Recreation (Fitness, Gym, Health, Indoor Sports, Recreation)	\$2.979	\$3.602
<b>Office Uses per sq. ft.</b>		
Office (Bank, Dental, General, Higher Education, Hospital, Medical, Professional)	\$2.590	\$3.585
Free-Standing Medical Office (Clinic, Dental, Emergency Care, Medical, Veterinary)	\$4.47	\$5.759
<b>Commercial Services &amp; Retail Uses per sq. ft.</b>		
Local Retail [Non-Chain or Franchisee] (Entertainment, Restaurant, Retail, Services) <sup>4</sup>	\$2.708	\$3.154
Multi-Tenant Retail (Entertainment, Restaurant, Retail, Services) <sup>5</sup>	\$5.414	\$6.306
Free-Standing Retail (Entertainment, Restaurant, Retail, Services) <sup>6</sup>	\$6.482	\$7.551
Furniture / Mattress Store	\$2.040	\$2.387
Quick Service Restaurant (Container, Fast-Casual, Fast Food, Ghost Kitchen) <sup>7</sup>	\$3.485	\$3.485
<b>Additive Fees for Commercial Services &amp; Retail Uses per applicable unit of measure<sup>8</sup></b>		
Bank Drive-Thru Lane or Free-Standing ATM <sup>9</sup> <i>per lane or per ATM</i>	\$0.00	\$0.00
Motor Vehicle Quick Lube <sup>10</sup> <i>per service bay</i>	\$0.00	\$0.00
Motor Vehicle & Boat Cleaning (Detailing, Wash, Wax) <sup>11</sup> <i>per lane or stall</i>	\$0.00	\$0.00
Motor Vehicle Charging or Fueling <sup>12</sup> <i>per charging or fueling position</i>	\$7,520	\$7,520
Pharmacy drive-thru <sup>13</sup> <i>per lane</i>	\$0.00	\$0.00
Quick Service Restaurant Drive-Thru Lane <sup>14</sup> <i>per lane</i>	\$0.00	\$0.00
<b>Footnotes provided in Table 159.108.3</b>		

TABLE 159.108.2 (RESERVED)

The following mobility fee schedule is an addendum to the mobility fee schedule in Table 159.108.2. The following mobility fee schedule addendum shall be effective as of January 3<sup>rd</sup>, 2022 and shall replace the maximum thresholds for multi-family residential established in Table 159.108.1 and the rates for quick-service restaurants and all non-residential uses under additive fees in Table 159.108.1.

<b>City of Port St. Lucie Mobility Fee Schedule</b>		
<b>Use Categories, Use Classifications, and Representative Uses</b>	<b>East Of</b>	<b>West Of</b>
	<b>St. Lucie River</b>	
<b>Residential &amp; Lodging Uses per sq. ft. or applicable unit of measure</b>		



Multi-Family Residential <i>per sq. ft. (Maximum 2,500 sq. ft.)</i> <sup>1</sup>	\$2,321	\$2,830
Commercial Services & Retail Uses per sq. ft.		
Quick-Service Restaurant (Container, Fast-Casual, Fast Food, Ghost Kitchen) <sup>7</sup>	\$44,591	\$49,117
Additive Fees for Commercial Services & Retail Uses per applicable unit of measure <sup>8</sup>		
Bank Drive-Thru Lane or Free-Standing ATM <sup>9</sup> <i>per lane or per ATM</i>	\$18,535	\$22,048
Motor Vehicle Quick Lube <sup>10</sup> <i>per service bay</i>	\$8,594	\$10,223
Motor Vehicle & Boat Cleaning (Detailing, Wash, Wax) <sup>11</sup> <i>per lane or stall</i>	\$17,739	\$21,102
Motor Vehicle Charging or Fueling <sup>12</sup> <i>per charging or fueling position</i>	\$16,524	\$18,687
Pharmacy drive-thru <sup>13</sup> <i>per lane</i>	\$10,892	\$12,808
Quick-Service Restaurant Drive-Thru Lane <sup>14</sup> <i>per lane</i>	\$34,089	\$37,548
<b>Footnotes provided in Table 159.108.3</b>		

TABLE 159.108.3

The following are the footnotes associated with Tables 159.108.1 and 159.108.2

<b>City of Port St. Lucie Mobility Fee Schedule Footnotes</b>
<sup>1</sup> The square footage for residential uses includes all habitable space per the Florida Building Code and all temperature controlled enclosed spaces (enclosed by doors, windows, or walls). The maximum square footage for each residential use denotes the maximum square footage per dwelling unit that a mobility fee will be assessed at. Common enclosed areas for active adult and multi-family uses are not assessed mobility fees, unless that space is leased to a third-party use and provides drinks, food, goods, or services to the public or paid memberships available to individuals that do not reside in a dwelling unit. Residential additions, except for expansion of bathrooms, kitchens, or non-temperature-controlled spaces, shall be required to pay a mobility fee up to the maximum square footage threshold for the entire dwelling unit. Any addition or expansion of a residential use for purposes of providing access to accommodate a mobility impaired person shall not be assessed a mobility fee. Accessory dwelling units shall also be required to pay a mobility fee per square foot.
<sup>2</sup> Any space that is leased to a third-party use (i.e., business owner, but not building owner) or provides drinks, food, goods, or services to the public shall be required to pay the applicable mobility fee per the individual uses identified in the mobility fee schedule.
<sup>3</sup> Acreage for any unenclosed material and vehicle storage, sales and display shall be converted to square footage.
<sup>4</sup> Local Retail shall mean entertainment, restaurant, retail, or personal service uses under Institute of Transportation Engineers (ITE) Land Use Codes 800 and 900 that are locally owned and are not national chains or national franchisee. Local shall be defined as five or fewer locations in Florida and no locations outside Florida.
<sup>5</sup> Multi-tenant Retail means a single building, with two or more separate uses under lease or ownership where no single use exceeds 75% of the total square footage of the building. Institute of Transportation Engineers (ITE) Land Use Codes under the 800 and 900 series and ITE Land Use Codes 444 and 445 (Movie Theater & Multi-Plex).
<sup>6</sup> Free-standing Retail means a single building where any single use under a common lease or ownership exceeds 75% of the total square footage of the building. ITE Land Use Codes under the 800 and 900 series and ITE Land Use Codes 444 and 445 (Movie Theater & Multi-Plex). This category does not apply to uses specifically listed under the commercial, <del>retail</del> entertainment, <del>retail</del> use category with its own mobility fee rate per applicable unit of measure.
<sup>7</sup> Quick-Service Restaurants (QSR) within multi-tenant buildings shall be assessed the quick-service restaurant mobility fee rate. Any QSR with a drive-thru shall also be required to pay the applicable mobility fee per drive-thru lane.
<sup>7</sup> <sup>8</sup> Additive mobility fees are in addition to mobility fees assessed for the square footage or applicable unit of measure for a given use of the building based on the applicable use beyond the area subject to the additive fee.
<sup>8</sup> <sup>9</sup> Each bank building shall pay the office rate for the square footage of the building. Drive-thru lanes, Free Standing ATM's and Drive-thru lanes with ATM's are assessed a separate fee per lane or per ATM and are added to any office rate mobility fee associated with a bank building. The free-standing ATM is for an ATM only and not an ATM within or part of another non-financial building, such as an ATM within a grocery store.
<sup>10</sup> Motor Vehicle Quick Lube shall mean routine maintenance such as changing fluids, filters, tires, and wipers. Motor Vehicle Quick Lube would pay per bay plus a retail rate associated with any additional building square footage, additional repair or tire service separate from the quick lube service bay.
<sup>9</sup> <sup>11</sup> Motor Vehicle or Boat cleaning shall mean any car wash, wax, or detail where a third party or automatic system performs the cleaning service. Mobility Fee are assessed per lane or stall, plus the applicable mobility fee a retail rate associated with

any additional building square footage. <del>Motor Vehicle Quick Lube would pay per bay plus a retail rate associated with any additional building square footage.</del>
<sup>10</sup> <sup>12</sup> Rates per <u>motor vehicle charging or fueling</u> position apply to a convenience store, gas station, general store, grocery store, supermarket, superstore, variety store, wholesale club or service stations with <u>charging stations or fuel pumps</u> . In addition, there shall be a separate mobility fee for the square footage of any multi-tenant or free-standing retail building per the applicable mobility fee rate. The number of <u>charging or fueling</u> positions is based on the maximum number of <u>motor vehicles</u> that could be <u>charged or fueled</u> at one time.
<sup>11</sup> <sup>9</sup> Motor Vehicle <u>Service Quick Lube</u> shall mean routine maintenance <u>or service</u> such as changing <u>belts, brakes, fluids, filters, tires, or and wipers</u> . <u>Service may also include functions such as alignments or tune-ups, but does not include body work, engine repair or replacement, or painting.</u> <del>or Motor Vehicle Service Quick Lube would pay per service bay plus the applicable mobility fee a retail rate associated with any additional building square footage, including any lobby, offices, show rooms or waiting area. additional repair or tire service separate from the quick lube service bay.</del>
<sup>12</sup> <sup>13</sup> Any drive-thru associated with a pharmacy will be an additive fee in addition to either the multi-tenant or free-standing retail mobility fee per square foot of the building. The number of drive-thru lanes will be based on the number of lanes present when an individual places or picks-up a prescription or item.
<sup>13</sup> <sup>14</sup> Any drive-thru associated with a quick-service restaurant will be an additive fee in addition to either the multi-tenant or free-standing retail mobility fee per square foot of the building. The number of drive-thru lanes will be based on the number of lanes present when an individual places or picks-up an order, whichever is greater. <u>Drive-thru lanes include lanes associated with picking up any beverage or food order made on-line, by an app, or a third party or drive-thru.</u>

TABLE 159.108.4

For any development with a City road impact fee ~~seeking to using an equivalent road impact fee credit based on credits provided by St. Lucie County or a mobility fee credit established per an agreement between the Applicant and the City, the following road impact fee schedule shall be utilized to assess development activity, and draw down the road impact fee credit amount.~~ ~~that utilizes a portion of a road impact fee credit issued by St. Lucie County, the credit shall not be applied to the following amounts that a developer would have paid to the City prior to enactment of the mobility fee unless otherwise provided for in an agreement. The developer shall be permitted to utilize an equivalent road impact fee credit or mobility fee credit to satisfy any mobility fee due above the amounts established below. The amounts shall be annually increased by the inflation index established pursuant to section 159.109 (E). The table includes equivalent uses from Tables 159.108.1 and 159.108.2. The unit of measure and the amounts have been converted to provide for equivalent use metrics for the mobility fees established in Tables 159.108.1 and 159.108.2. If the conversion from a unit-based fee to a square footage-based fee results in a higher amount due, the residential development shall only be responsible for the amount due prior to adoption of the mobility fee. If the conversion from a unit based fee to a square footage-based fee results in a higher amount, the residential development shall only be responsible for the amount due prior to adoption of the mobility fee.~~

Use	Unit of Measure	Amount	Equivalent use
Single Residential	Per Dwelling	\$1,169	Single-Family, Active Adult, Mobile Residence
2+ Units per Structure	Per Dwelling	\$919	Multi-Family
Commercial	Per Sq. Ft.	\$1.945	Retail: Local, Multi-Tenant, Free-Standing, <del>Furniture / Mattress, Quick Service Restaurant</del>
Research & Dev <del>Ctr</del> <u>Center</u>	Per Sq. Ft.	\$0.619	<u>Office</u> <del>None</del>
Office	Per Sq. Ft.	\$0.842	Office, Free-Standing Medical Office
Nursing Home	Per Sq. Ft.	\$0.580	Long Term Care
Hospital	Per Sq. Ft.	\$1.009	Office, Free-Standing Medical Office

Day Care	Per Sq. Ft.	\$0.640	Private Education
University/College	Per Sq. Ft.	\$0.520	Office
Secondary School	Per Sq. Ft.	\$0.708	Private Education
Elementary School	Per Sq. Ft.	\$0.777	Private Education
Lodging	Per Room	\$429.00	Overnight Lodging
Assisted Living	Per Sq. Ft.	\$0.406	Long Term Care

Use	Unit of Measure	Amount	Equivalent use
Single Residential	Per Dwelling	\$1,169	Single Family, Active Adult, Mobile Residence
2+ Units per Structure	Per Dwelling	\$919	Multi Family
Commercial	Per Sq. Ft.	\$1.945	Retail: Local, Multi-Tenant, Free-Standing, Furniture / Mattress, Quick Service Restaurant
Research & Dev Ctr	Per Sq. Ft.	\$0.619	None
Office	Per Sq. Ft.	\$0.842	Office, Free-Standing Medical Office
Nursing Home	Per Sq. Ft.	\$0.580	Long Term Care
Hospital	Per Sq. Ft.	\$1.009	Office, Free-Standing Medical Office
Day Care	Per Sq. Ft.	\$0.640	Private Education
University/College	Per Sq. Ft.	\$0.520	Office
Secondary School	Per Sq. Ft.	\$0.708	Private Education
Elementary School	Per Sq. Ft.	\$0.777	Private Education
Lodging	Per Room	\$429.00	Overnight Lodging
Assisted Living	Per Sq. Ft.	\$0.406	Long Term Care
Mini Warehouse	Per Sq. Ft.	\$0.190	Commercial Storage
Warehousing	Per Sq. Ft.	\$0.271	Commercial Storage
Manufacturing	Per Sq. Ft.	\$0.291	Industrial
Light Industrial	Per Sq. Ft.	\$0.532	Industrial

**Sec. 159.109. Adoption, Review and Revision.**

- (A) The Council shall adopt all revisions and updates to the Multimodal Program by ordinance.
- (B) The City Manager shall direct staff or consultants to annually review the mobility fee ordinance, procedures, assumptions, and fee calculations and to issue, on or before July 1, an annual report summarizing information on the mobility fees. Information on all impact and mobility fees imposed by the City may be included in one annual report. The annual report shall be distributed to the Council by the City Manager. The annual report

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should include, for example, information on account balances, annual collections, annual expenditures, multimodal capital improvement projects funded in whole or in part with mobility fees, administrative costs and administrative fees charged, if any, and may include any other issues of concern related to the City's mobility fee system and ordinance. Information from the comprehensive annual financial report (CAFR), the capital improvements program (CIP) and any other reports or plans adopted by the City may be included by reference or duplicated in part for the annual mobility fee report. The annual report should include recommendations related to the mobility fee system, including, but not limited to, whether there is a need to update the fees based on the FDOT construction cost Index pursuant to subsection (E) below, the need for any updates to the mobility fee calculations, and the need for any modifications to the ordinance. When increased mobility fees are recommended, the report should include a discussion of affordable housing and how the increase might affect housing affordability. Based upon the annual report, the Council may, but is not required to, direct further action on the mobility fee system. Nothing in this article shall be construed to limit the Council's authority to amend this article at any time.

- (C) The Council shall, through staff or consultants, conduct a complete review and, if needed, update the mobility fee Technical Report and the mobility fee ordinance at least once every four (4) years. The mobility fee Technical Report may require update earlier than every four (4) years if there is an update of any of the following: Trip Generation Manual, the FDOT Generalized Maximum Service Volume Tables, the Treasure Coast Regional Planning Model as part of a Long-Range Plan update, or the National Household Travel Survey. The new mobility fee technical report should specifically address affordable housing methodologies or alternative methods of setting mobility fees, such as mobility fees based on square footage or housing in different assessment areas of the City, such as CRA, or both. The new mobility fee technical report issued based on this review shall be distributed to the Council by the City Manager. Changes to the mobility fee system, including updated mobility fee calculations, should be adopted within a year of completion of the quadrennial report. This quadrennial report shall be issued on or before July 1 in the applicable years and may substitute for the annual report in that year. In the event that a full reevaluation and updates are not complete within the required four (4) year period, the last adopted mobility fee shall remain in effect until the reevaluation is complete.
- (D) The Multimodal Program shall be updated at least once every four (4) years and reviewed annually during either the capital improvements budget process or the preparation of the mobility fee annual report. The review shall include a recommendation regarding the need to update the Multimodal Program earlier than the four (4) year schedule due to factors such as increased cost, amendments to the Future Land Use Element and Map that result in the need for additional multimodal capital improvements infrastructure, or the addition or subtraction of multimodal capital improvements or funding to the Multimodal Program and Capital Improvement program with a cumulative cost that is less than or more than ten (10) percent of the cumulative cost of the Mobility Plan. ~~of more than \$100 million.~~
- (E) To ensure that mobility fees keep pace with inflation, on either October 1st of each calendar year, starting October 1, ~~2023~~ ~~2022~~, or January 1<sup>st</sup>, of each calendar year, starting January 1, ~~2024~~ ~~2023~~, the mobility fees in Section 159.108 shall be adjusted by the projected rate of inflation for the upcoming calendar year as determined by the most recent FDOT Transportation Cost Report Construction Cost Inflation Factors released on or about July of each calendar year. Should FDOT cease to prepare the report, then annual inflation factor adjustments shall be based on either the national Producers Price Index for transportation projects, the engineering news record (ENR) construction cost index, or such other indexes or computations determined by the City Manager to be suitable for use.
- (F) The City shall adopt, by ordinance, any update of the mobility fees in Section 159.108. Any increase in mobility fees due to updates of the Multimodal Program and mobility fee or adjustments due to inflation shall not go into effect until at least 90 days after public notice has been provided. Notice of the increase in mobility fees shall be provided in a publication of general circulation available to City residents and businesses or as permitted by State Statute, on the City's website. The advertisement shall be published and posted 90 days prior to the increase of the mobility fees is effective.

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## Sec. 159.110. Construction or Donation of Property in Lieu of Mobility Fee Payments.

- (A) In lieu of cash payment of all or part of the mobility fee, the ~~Applicant~~ Applicant may offer to construct multimodal capital improvements, ~~or dedicate right-of-way~~, or donate property for a multimodal capital improvement listed in the Multimodal Program. Such capital improvement ~~or right-of-way~~ or property donation must be in addition to any multimodal capital improvements ~~or right-of-way~~ required pursuant to other regulations, ordinances, laws, or agreements and must only be for a multimodal capital improvement ~~or right-of-way~~ that is listed in the Multimodal Program and that meets the requirements set out in section 159.107 hereof. The ~~applicant~~ Applicant shall submit an estimate of the costs of the proposed multimodal capital improvement ~~capital improvement~~ certified by a registered Florida professional engineer acceptable to the Council and an appraisal of the fair market value of a proposed dedication of right-of-way or donation of property prepared by a state certified general appraiser who is a member of the Appraisal Institute (MAI), acceptable to the Council.
- (1) For multimodal capital improvements not included in the Multimodal Program, the Applicant may request that the Council amend the Multimodal Program to add the multimodal capital improvements to the program.
  - (2) Multimodal capital improvements included in the Mobility Plan and the mobility fee calculations that are not a development order condition shall be eligible to request mobility fee credit. Multimodal capital improvements that are in the Mobility Plan and are a development order condition, may be eligible for credits for providing additional lanes per section 159.111 (G) and (H).
  - (3) The Council may elect to add multimodal capital improvements to the Multimodal Program that are included in the Mobility Plan, Long Range Transportation Plan, FDOT Work Program, or a special City, County, FDOT, or TPO study. The multimodal capital improvements are not required to be specifically listed in the mobility fee calculations to be eligible for mobility fee credits, if the City adds the multimodal capital improvements to the Multimodal Program.
- (B) If it finds the offer acceptable the Council may enter into an agreement with the ~~Applicant~~ Applicant to apply the cost of the construction of multimodal capital improvements and fair market value of the right-of-way dedication or property donation to the mobility fee otherwise due. The portion of the mobility fee represented by the construction of multimodal capital improvements ~~multimodal improvements~~ or right-of-way dedication or donation shall be considered paid when the construction, dedication, or donation is completed and accepted by the City (or other governmental entity as may be approved by the City) for maintenance or when adequate security for the completion of the construction has been provided. If mobility fees are owed, no development activity approvals ~~permits~~ of any type may be issued for the building or structure in question while the mobility fee remains unpaid. The City Manager may authorize the initiation of any action as permitted by law or equity to collect the unpaid mobility fees.
- (C) No payment in lieu shall be given for any site-related transportation improvements or site-related right-of-way dedications. Site-related transportation and right-of-way improvements, include, but are not limited to:
- (1) All driveway connection turn lanes, and other site-specific access improvements connecting property owned by the ~~Applicant~~ Applicant to any mobility fee eligible roadway.
  - (2) All driveways, multimodal capital improvements ~~multimodal facilities~~, and attendant support systems, including, but not limited to, drainage facilities and mitigation areas, within, or immediately adjacent to, the defined limits of the approved final development order.
- (D) No payment in lieu shall be given for safety-related improvements which do not increase person miles of travel capacity.
- (E) No payment in lieu shall be given for improvements necessary to provide safe and adequate access to the project site.
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- (F) Non-site-related ~~person travel capacity~~ multimodal capital improvements may receive payment in lieu only to the extent that they are identified in the Multimodal Program and that they provide increased person miles of travel capacity.
  - (G) In the event a property owner offers to donate right-of-way for a multimodal capital improvement designated in the Multimodal Program in advance of an application for development ~~activity-order~~ approval, the Council may consider the offer and proceed to establish the fair market value of the right-of-way. No right-of-way value determination may include the consideration of any enhancement to the value of property dedicated as a result of the new or expanded right-of-way. The City may accept or reject the offer. The City may accept a property owner's offer only through a written agreement with the property owner consistent with this subsection.
  - (H) Any request for donation of right-of-way or construction of multimodal capital improvements in lieu of mobility fee payments must be made no later than the time of application for a building permit, certificate of occupancy, or other permit. Any request not so made shall be deemed waived.
  - (I) The City shall not give mobility fee credits for road impact fees or mobility fees paid, or multimodal capital improvements ~~capital improvements~~ constructed, or dedications of right-of-way or donations of property, except to the extent that such credit was specifically granted by the City to an Applicant in a written agreement with the City or as otherwise provided for in Section 159.111. If an Applicant or successor in interest or predecessor in title has agreed in a written agreement with the City or other governmental agency not to seek or accept any road impact fee or mobility fee credits then it shall not be given any mobility fee credits, and shall not be eligible for payments in lieu for the construction of multimodal capital improvements or the dedication of right-of-way or donation of property required by the agreement.
  - (J) The City may adopt policies and procedures related to the construction of multimodal capital improvements or donation of property in lieu of mobility fee payment by resolution.

### **Sec. 159.111. Developer Agreements and Credit.**

- (A) An Applicant may enter into a developer or development agreement with the City to establish development specific mobility fees in lieu of the mobility fees set forth herein, based on an independent study subject to review and approval by the City, or to construct multimodal capital improvements ~~multimodal improvements~~ necessary to mitigate the person travel demand ~~Person Travel Demand~~ impact of the development.
  - (B) Any agreement proposed by an Applicant pursuant to this Section shall be presented to and approved by the Council prior to the issuance of a building permit or approval of development activity ~~change of use permit~~. Any such agreement shall provide for execution by any mortgagees, lienholders, or contract purchasers in addition to the landowner, and shall require the Applicant to record such agreement in the public records of St. Lucie County. The Council shall approve such an agreement only if it finds that the new agreement will apportion the burden of expenditure for new facilities in a just and equitable manner, consistent with applicable Florida Statutes, case law and this Article.
  - (C) The City shall honor all existing developer agreements between the City and an Applicant that provides a City road impact fee credit. Within six (6) months from October 1<sup>st</sup>, 2022, development entities shall enter into a true-up agreement with the City that verifies the City road impact fee credit granted, the amount of City road impact fee utilized, and the net City road impact fee credit balance. This deadline may be extended due to extraneous circumstances at the discretion of the City Manager. ~~The Until such time as a development entity and the City enter into a new agreement to provide for mobility fee credit, the City will honor road impact fee credits for development entities that have entered into a legally binding and valid developer or development agreement with St. Lucie County for road impact fee credit for the dedication of right of way or the construction of road improvements, or both. Existing road impact fee credits will be recognized as equivalent to mobility fee credits, on a dollar for dollar basis, to reduce any mobility fee collected for the general category or class of public facilities or infrastructure for which the dedication or construction was made.~~
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- (D) For development entities with City road impact fee credit agreements and true-up agreements, the Applicant shall be assessed City road impact fees per the rates. The amount of equivalent road impact fee credit that may be applied to an assessed mobility fee shall be the difference between the calculated mobility fee and the amounts established in Table 159.108.4. These rates shall remain in effect until such time as the development entity has exhausted the City road impact fee credit. The amounts established in Table 159.108.4 shall be paid to the City to mitigate impact within the benefit district in which the mobility fee is collected. Prior to adoption of a mobility fee, the amount of the County road impact fee assessed to a building permit was reduced by up to 50% to account for payment of the City road impact fee to ensure new development did not pay twice for the same impact. A similar process is being applied to the mobility fee, except the 50% threshold no longer applies. The amounts in Table 159.108.4 are calculated per sq. ft., unless otherwise indicated on Table 159.108.4. Single family, active adult, and multi family amounts are per sq. ft. per dwelling unit, up to the maximum thresholds in Tables 159.108.1 and 159.108.2. This process is established to ensure new development continues to mitigate its impact beyond the internal improvements for which the County provided a road impact fee credit.
- (E) For Applicants that are not authorized to utilize the City road impact fee credit or for development activity occurring after six (6) months from October 1<sup>st</sup>, 2022, by Applicants that have not entered into a true-up credit agreement or obtained an extension, the Applicant shall pay the mobility fee per Table 159.108.1. upon application for approval of development activity that would require payment of a mobility fee. Applicants shall not be permitted to retroactively request use of City road impact fee credit.
- (F) In limited instances, the Council, at its discretion, may reallocate County Road impact fee credits to pay down City Road impact fees based on the last adopted City Road impact fee schedule. Applicants meeting the following criteria are entitled to apply to Council for approval to reallocate County Road impact fee credits:
- (1) Applicant holds County road impact fee credits (existing or contingent) originating from a County road impact fee credit agreement established on or prior to October 1, 2021; and
  - (2) The development entity that generated the applicable credits (recognizing an Applicant may be a successor in interest) constructed improvements on City roads and has only received County Road impact fee credits and has not yet received any City Road impact fee credits for those improvement on City roads; and
  - (3) Applicant, or its predecessor(s) in interest, has not previously obtained approval from Council to reallocate the applicable credits.

The City will require that an agreement be entered into between the County, City and Applicant to identify the terms of an approved reallocation in a form agreeable to the City Attorney, prior to reallocated credits being available for use by the Applicant. The agreement must include, but will not be limited to, (i) consent to the reallocation by the County, and (ii) an accounting of how the applicable County Road impact fee credit will be reduced by the same amount as City Road impact fee credit granted through the reallocation.

There are limitations on applications for reallocations. No applications for reallocation shall be accepted for filing if all or any portion of the County Road impact fee credits subject to the application were part of a previous application which meets any of the following conditions:

- (1) An application for the same County Road impact fee credits was denied by the Council within the previous 12-month period;
- (2) An application for the same County Road impact credits was allowed to be withdrawn by the Council within the previous 12-month period.

The time limits set forth above may be waived by the City Manager when waiver is deemed necessary to prevent injustice or to facilitate the proper development of the City. An Applicant aggrieved by a waiver determination made by the City Manager shall have the right to appeal to the Council, based on a showing of just cause.

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- (G) An Applicant may request mobility fee credit for adding two lanes to an existing two-lane road or four-lane road if the additional lanes are a development order condition and the improvement is required by the City but is not warranted to accommodate the traffic demand from the development entity. If the Applicant does add traffic to the two additional lanes but does not utilize more than eighty-five (85) percent of the capacity provided, then the development entity may request a share of the cost proportional to the additional capacity added from the two additional lanes, less the development entity's traffic. Should the Council approve the request, then the multimodal capital improvement shall be added to the Multimodal Program.
- (H) An Applicant may request mobility fee credit for advancing the construction of a new two-lane road or four lane road or adding two lanes to an existing two-lane road or four lane road, if the requirement for the improvement is a development order condition of another development, but not if the Applicant constructing the improvement is required to do so through a contractual agreement or settlement agreement. The development entity that was required to construct the new two lane or four lane road shall not be entitled to credit for adding additional lanes in the future if the initial two or four lanes were a requirement of the development activity. If the improvement has not yet been constructed, the request should be submitted to the Council for review, and if adopted, incorporated into the Multimodal Program.
- (I) An Applicant may request mobility fee credit for constructing multimodal capital improvements, that are above the requirements of the City's design requirements, or the road design requirements of the City's land development regulations, Comprehensive Plan or Public Works design manuals. The City Manager, in consultation with the City Attorney's Office and the Public Works Department, may make a finding that a multimodal capital improvement constructed by a development entity is above the requirements of a development agreement or development order condition, and therefore, eligible to request credit. For improvements that have not yet been constructed, a request should be made to the Council to add the multimodal capital improvement to the Multimodal Program and any credit granted would be subject to the Council adding the improvement to the Multimodal Program.
- (J) An Applicant may request mobility fee credit for constructing multimodal capital improvements or required transportation mitigation payments, unless an agreement with the City expressly prohibits request for a mobility fee, road impact fee, or functionally equivalent credit. The improvement or mitigation payment should be reviewed against the Multimodal Program, Mobility Plan, Comprehensive Plan, Capital Improvement Plan, or other transportation plan to review consistency with an adopted plan. The request shall be evaluated on a case-by-case basis, and the conditions that required the multimodal capital improvements also be evaluated in determining if credits should be granted, where the credits may be utilized, and who is authorized to use the credits.
- ~~(E) Development entities shall have 18 months from October 5, 2021, to enter into a new agreement with the City to convert equivalent road impact fee credit to mobility fee credits. The agreements shall specify, but are not limited to, the following:~~
- ~~(1) The right of way, construction or capital improvements (or any combination thereof) for which the credit was granted;~~
  - ~~(2) The amount of the credit;~~
  - ~~(3) The remaining balance of the credit as of the date specified in the agreement;~~
  - ~~(4) The amount of mobility fee credit that may be applied to a building permit or change of use, adjusted for equivalent amounts to be applied towards system wide multimodal improvements at rates consistent with current City and County road impact fee adjustments;~~
  - ~~(5) The mobility fee credits to be provided for right of way or multimodal improvements or both that have not yet been dedicated or commenced construction but have been identified as eligible for road impact fee credit in existing agreements with the County; and~~
  - ~~(6) Any road impact fee credit amount to be reserved should the County elect to enforce or adopt a road impact fee or equivalent that would apply to development within the City that meets the dual rational~~
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~~nexus test, the rough proportionality test, that does not charge new development twice for the same impact, does not hold development in the City to a higher standard than in the County, does not charge for deficiencies, and demonstrates the basis for the fee is attributable to the impact of new development, in conformance with F.S. § 163.31801.~~

~~(F) Developments may transfer equivalent road impact fee credit or mobility fee credits to developments within benefit districts wholly or partially located west of Interstate 95 to satisfy the mobility fee payment, less the amounts established in Table 159.108.4. Credits issued by the County were largely related to on-site improvements or improvements to facilitate access to new development, not off-site improvements that provided a citywide mobility benefit. Equivalent road impact fee credit or mobility fee credits may not be transferred to any development within the East benefit district to satisfy mobility fee payments. Developments shall be permitted to transfer credit, per statutory rules or as stipulated in contractual agreements, anywhere in the City to pay any assessed County road impact fees or functional equivalent adopted by the County.~~

### **Sec. 159.112. Refund of Fees Paid.**

- (A) If a building permit or other permit for a mobile home or recreational vehicle expires and no construction has commenced, then the Applicant applicant, or its successors may request, within three (3) months of permit expiration, a refund of the mobility fee paid as a condition for its issuance without payment of interest. The refund request should substantially follow the submittal requirements of a refund petition described in subsection (B). If administrative service charges are adopted by resolution under section 159.107, the City shall retain the appropriate service charge amount as reimbursement for the City's costs of processing the refund.
- (B) The following establishes the process for refunds:
- (1) Any mobility fee funds not expended or encumbered by the end of the calendar quarter immediately following seven (7) years from the date the mobility fee was paid shall, upon application of the current owner of the property within one hundred eighty (180) days of the expiration of the seven (7) year period, be returned to the current owner of the property with interest at the rate of three (3) percent per annum.
  - (2) If such funds have not been spent during this time period, the then-present owner of the property may obtain a refund according to the following procedure:
    - (i) The then-present owner must petition the Council for a refund within one hundred eighty (180) days of the seven (7) year period.
    - (ii) The petition must be submitted to the City Manager and must include the following:
      - (a) A notarized, sworn statement that the petitioner is the current owner of the property;
      - (b) A copy of the dated receipt issued for payment of the mobility fee;
      - (c) A certified copy of the latest recorded deed; and
      - (d) A copy of the most recent ad valorem tax bill.
  - (3) Within sixty (60) days from the date of receipt of the petition for refund, the City Manager, or his designee, shall advise the petitioner and the Council of the status of the fee requested for refund. For purposes of determining whether mobility fees have been spent or encumbered, the first money placed into the special revenue account shall be deemed to be the first money taken out of that account.
  - (4) When the money requested is still in the special revenue account and has not been spent or encumbered by the end of the calendar quarter immediately following seven (7) years from the date the mobility fees were paid, the funds shall be returned with interest at the rate of three (3) percent per annum.
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**Sec. 159.113. Effect on Land Use and Development Code.**

- (A) The listing of a use of land in the mobility fee schedule is solely for purposes of establishing the applicable mobility fee schedule for such use, and such listing does not mean that the use of land is permitted or available under applicable zoning and Comprehensive Plan requirements. In addition, the listing of the use of land in the mobility fee schedule shall not be considered evidence that the use is appropriate or approved in any land use classification or zoning district.
- (B) The payment of mobility fees does not ensure nor grant compliance with the City's land development code, including regulations relating to transportation corridor management, access management, substandard roads, secondary access, timing and phasing, and, where applicable, development of regional impact review. However, if such regulations require person travel demand ~~Person Travel Demand~~ mitigation for the same impacts addressed through the payment of mobility fees, such regulations shall be deemed to provide for mobility fee credit against imposed mobility fees consistent with state and federal law and this Article.

**Sec. 159.114. Appeals.**

- (A) Any decision made by the City Manager in the course of administering the provisions of this Article may be appealed to the Council by filing a petition of appeal with the City Clerk within thirty (30) calendar days of the date of the rendition of the decision.
- (B) The Council shall review the petition within thirty (30) calendar days from the date of filing the appeal. The petitioner shall be provided reasonable notice of the time, date, and place of the public meeting by certified mail, return receipt requested, and invited to attend. The Council's decision shall be final for the purpose of administrative appeals. The Council shall revoke the decision of the City Manager only if there is no competent and substantial evidence in the record that supports the decision of the City Manager or if there is no adequate legal basis for the decision of the City Manager or there was a failure to substantially comply with this article.

~~Secs. 159.115. City road impact fee credits and agreements.~~

{Reserved}

~~(Ord. No. 21-75, § 2(Exh. A), 9-13-21)~~

Secs. 159.116—159.200. Reserved.