

ORDINANCE 21-75

AN ORDINANCE AMENDING THE CITY OF PORT ST. LUCIE CODE OF ORDINANCES BY REPEALING TITLE XV, CHAPTER 159, ARTICLE II, ENTITLED “ROAD IMPACT FEE SCHEDULE” IN ITS ENTIRETY AND REPLACING ARTICLE II WITH A NEW ARTICLE II TO BE ENTITLED “MOBILITY PLAN AND MOBILITY FEE”; PROVIDING FOR THE ADOPTION OF THE CITY OF PORT ST. LUCIE MOBILITY PLAN AND MOBILITY FEES TECHNICAL REPORT; PROVIDING FOR AUTHORITY; PROVIDING FOR GENERAL PROVISIONS; PROVIDING FOR DEFINITIONS; PROVIDING FOR PURPOSE; PROVIDING FOR RULES OF CONSTRUCTION; PROVIDING FOR IMPOSITION OF MOBILITY FEES AND A MOBILITY FEE SCHEDULE; PROVIDING FOR REVIEW OF ALTERNATIVE AND SPECIAL FEE DETERMINATIONS; PROVIDING FOR MOBILITY FEE CREDITS; PROVIDING FOR THE ESTABLISHMENT OF MOBILITY FEE BENEFIT DISTRICTS; PROVIDING FOR THE FUND ACCOUNTS, EXPENDITURES, AND REFUNDS; PROVIDING FOR EFFECTS ON LAND DEVELOPMENT REGULATIONS; PROVIDING FOR THE DEVELOPMENT OF AN ADMINISTRATIVE MANUAL AND SERVICE CHARGES; PROVIDING FOR REQUIREMENTS FOR ANNUAL REPORTING, REVIEW AND UPDATES; PROVIDING FOR AGREEMENTS, INTERLOCAL AGREEMENTS AND VESTED RIGHTS; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Port St. Lucie, Florida (the “City”) currently has an established road impact fee and transportation concurrency system, as one part of an overall growth management program as set forth in the City’s Comprehensive Plan; and

WHEREAS, the road impact fee and transportation concurrency system is principally focused on vehicular mobility, and in contrast, a mobility plan and mobility fee system takes a comprehensive view on the provision of mobility through walking, biking, transit, motor vehicles and new personal and shared mobility technology; and

WHEREAS, pursuant to Article VIII, Section (1)(g) of the Florida Constitution and Chapter 166, Florida Statutes, the City has broad home rule powers to adopt ordinances to provide for and operate multimodal transportation systems, including bicycle lanes, greenways, shared-use paths, sidewalks, trails, micromobility facilities, microtransit transit facilities, services and programs, roadways, intersections, shared mobility services, programs, and technology within the City; and

WHEREAS, Section 163.3180(5)(f), Florida Statutes, encourages local governments (including municipalities such as the City) to develop tools and techniques including adoption of

long-term strategies to facilitate development patterns that support multimodal solutions, adoption of area wide service standards that are not dependent on any single road segment function, and establish multimodal service standards that rely primarily on non-vehicular modes of transportation where existing or planned community design will provide an adequate level of personal mobility; and

WHEREAS, Section 163.3180(5)(i), Florida Statutes, authorizes local governments to adopt an alternative mobility funding system; and

WHEREAS, the City desires to adopt a mobility fee system, based on the multimodal improvements included in a mobility plan, as an alternative mobility funding system consistent with Section 163.3180(5)(i), Florida Statutes; and

WHEREAS, the City intends to no longer collect City road impact fees from new development and redevelopment within the City; and

WHEREAS, the City intends to no longer collect County road impact fees effective October 1st, 2021, from new development and redevelopment within the City; and

WHEREAS, the City intends to replace its transportation concurrency and road impact fee system, with a mobility fee system consistent with the requirements of Section 163.3180(5)(i), Florida Statutes; and

WHEREAS, the mobility fee system focuses on person travel demand, which includes walking, biking, transit, and motor vehicular trips, generated by new development and redevelopment and the resulting impact on multimodal person capacity and accordingly requires the expenditure of revenue derived under that system to be used on multimodal improvements and projects identified in an adopted mobility plan that increases multimodal person capacity; and

WHEREAS, the mobility fee system includes, but is not limited to, considerations of the impact of person travel demand generated by new development and redevelopment on multimodal person capacity as well as considerations of the impact of new development on overall mobility within the City including unincorporated enclaves, and within incorporated and unincorporated areas adjacent to the City; and

WHEREAS, the City is experiencing extraordinary growth and new development, resulting in extraordinary circumstances that necessitate the addition and expansion of transportation facilities for a variety of modes to meet the extraordinary growth in the person travel demands of new development and redevelopment, including adequate and efficient multimodal facilities along with different personal and shared mobility options; and

WHEREAS, imposition of a mobility fee, requiring future development and growth within the City to contribute its fair share of the cost of extraordinary growth-necessitated multimodal transportation system facilities, is necessary and reasonably related to the public health, safety, and welfare of the people of the City, provided that the mobility fee does not exceed the amount necessary to offset the demand on multimodal person capacity and facilities generated by new development and redevelopment; and

WHEREAS, the City in its Transportation Element sets out goals, objectives and policies to develop and maintain a safe, convenient, efficient transportation system which: recognizes present need, reflects the Future Land Use Plan, and provides for safe, efficient multimodal transportation system; and

WHEREAS, the City Council of the City (the “City Council”) finds that this Ordinance supports and furthers goals, objectives and policies of the Transportation Element of the Comprehensive Plan as follows:

- Goal 2.1 which directs the City “TO PROVIDE SAFE AND EFFICIENT MOVEMENT OF PEOPLE AND GOODS, AT REASONABLE COST AND MINIMUM DETRIMENT TO THE ENVIRONMENT;”
- Objective 2.1.1 which states, “The City's roadway transportation system shall be reviewed annually in coordination and consistent with changes to the Future Land Use Element. A report on the status of the system and impacts on the system by proposed land use changes shall be prepared;”
- Policy 2.1.2.13 which states, “The City may consider the establishment of multimodal quality or level of service standards that includes bicycle facilities including bicycle lanes, pedestrian facilities, and transit in addition to vehicular roadway capacity level of service standards. The City should coordinate with the FDOT, St. Lucie County, and the St. Lucie County TPO in developing planning studies in the feasibility of a multimodal quality level of service standards;”
- Objective 2.1.4 which states, “The City should reduce greenhouse gases by promoting increased usage of transit, improved bicycle and pedestrian facilities, and more efficient roadways;”
- Goal 2.2 which directs the City to “ESTABLISH AN INTEGRATED TRANSPORTATION SYSTEM CONSISTENT WITH FUTURE DEVELOPMENT IN THE CITY;”
- Policy 2.2.1.5 which states, “The City may encourage all new roadways as complete streets and to consider reconfiguring existing roadways to a complete street design;”
- Goal 2.3 which directs the City to “MEET THE CURRENT AND FUTURE MOBILITY NEEDS OF RESIDENTS, BUSINESSES, AND VISITORS WITH A BALANCED TRANSPORTATION SYSTEM;”
- Objective 2.3.1 which states, “The transportation system shall be improved to appropriately accommodate bicycle and pedestrian roadway design and facility requirements where determined feasible and when funding is made available;”
- Objective 2.3.3 which directs the City to, “Manage the street system safely and efficiently for all modes of users and seek to balance limited street capacity among competing uses;”

- Policy 2.3.3.1 which states the City shall, “Promote safe and convenient bicycle and pedestrian access throughout the transportation system and support the establishment of bicycle and pedestrian facilities within arterial and collector roadways;”
- Policy 2.3.3.2 which states the City shall, “Support the development of an integrated, regional transit system and work with transit providers to provide safe and convenient access to transit stops and facilities;”
- Goal 2.4 which directs the City to “COORDINATE TRANSPORTATION RELATED ISSUES WITH THE FDOT, THE TREASURE COAST REGIONAL PLANNING COUNCIL, ST. LUCIE COUNTY, THE TPO, THE DIVISION OF COMMUNITY DEVELOPMENT, AND OTHER PRIVATE OR PUBLIC TRANSPORTATION RELATED AGENCIES;”
- Objective 2.4.1 which directs the City to, “Share common transportation goals, objectives, and policies with the transportation-related agencies listed above where common interests are involved. The City should coordinate with adjacent jurisdictions on multi-modal approaches to transportation planning and implementation of concurrency or mobility;”
- Policy 2.4.1.5 which states, “The City may consider reviewing existing fee structures to fund alternative modes of transportation including a mobility fee based upon multi-modal capital improvement projects, system efficiency, and congestion management;”
- Goal 2.6 which directs the City to “PROVIDE A SAFE AND EFFICIENT MULTIMODAL TRANSPORTATION SYSTEM FOR THE WESTERN ANNEXATION AREAS;”
- Objective 2.6.1 which directs the City to, “Provide a comprehensive transportation system for the Western Study Area that provides a sufficient roadway grid network that accommodates the planned uses identified in the future land use map;” and

WHEREAS, the mobility fees imposed hereby (1) are in compliance with the "dual rational nexus test" developed under Florida case law, (2) meet the "essential nexus" and "rough proportionality" requirements established by the United States Supreme Court, in *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987) and *Dolan v. City of Tigard*, 512 U.S. 374 (1994), (3) are consistent with the requirements set forth in Section 163.3180, Florida Statutes, and (4) are consistent with and being imposed in accordance with Section 163.31801, Florida Statutes; and

WHEREAS, the City Council has determined that the proposed Ordinance adopting a mobility fee will help to preserve and enhance the rational nexus between the need for multimodal person travel demands generated by new development and redevelopment in the City and the mobility fees imposed on that development based on the multimodal improvements established in the mobility plan; and

WHEREAS, establishment of mobility fee benefit districts regulates mobility fee expenditures and is the best method of ensuring that the multimodal projects funded by mobility

fees have the rational nexus and benefit to the development for which the mobility fees were paid; and

WHEREAS, mobility fees collected will be deposited in mobility fee funds created for the related mobility fee benefit districts established herein and expended for the purposes set forth herein; and

WHEREAS, the City will set aside a percentage of mobility fees collected and deposited to fund a pro-rata share of improvements to County roads within the City's related mobility fee benefit districts, and expend them for the purposes set forth herein; and

WHEREAS, mobility fees imposed hereunder achieve the goals, objectives and policies of the Comprehensive Plan and utilize the tools and techniques encouraged by Section 163.3180, Florida Statutes; and

WHEREAS, the City has developed a Phase One Mobility Plan and Mobility Fee Technical Report dated September 2021 prepared by NUE Urban Concepts, LLC, that provides the technical analysis to determine the mobility fee, based on the multimodal improvements on City, County, and State right-of-way within and adjacent to the City identified in the mobility plan, which constitutes a proper factual predicate for imposition and expenditure of the mobility fees; and

WHEREAS, the City has determined that the enactment of this Ordinance adopting a mobility plan and mobility fee will help to preserve and enhance the rational nexus between the extraordinary increase in multimodal person travel demands generated by new development and redevelopment in the City, and the mobility fees imposed on that development and redevelopment to fund multimodal improvements on City, County, and State right-of-way within and adjacent to the City in the mobility plan to address that demand; and

WHEREAS, the City Council has noticed, advertised, scheduled and held public workshops and hearings in compliance with Florida Statutes with respect to enactment of this proposed Ordinance; and

WHEREAS, the City Council has determined that it is advisable and in the public interest to enact this Ordinance and implement the proposed Mobility Plan and Mobility Fee.

NOW, THEREFORE, THE CITY OF PORT ST. LUCIE HEREBY ORDAINS:

Section 1. Recitals. That the foregoing recitals are hereby ratified and confirmed as true and correct and are hereby incorporated herein by this reference.

Section 2. Amending Article II of Section 159 of Title XV of the Code of Ordinances. That Article II, entitled, "Road Impact Fee Schedule," of the Code of Port St. Lucie, Florida is hereby amended in its entirety to read as set forth in Exhibit "A" attached hereto and made a part hereof. Notwithstanding any provision in Exhibit "A" 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 according to their terms. The City will enter into updated credit agreements with all applicants within the 18 months following October 1, 2021 to more specifically address the administration of these credits under the mobility fee.

Section 3. Severability. That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Codification. That it is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the City's Code of Ordinances, and that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions, and that the word Ordinance shall be changed to Section or other appropriate word.

Section 5. Conflicts. That all ordinances or parts of ordinances, resolutions or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

Section 6. Effective Date. That this Ordinance shall become effective on October 1, 2021.

PASSED AND ADOPTED by the City Council of the City of Port St. Lucie, Florida, this ____ day of _____, 2021.

CITY COUNCIL
CITY OF PORT ST. LUCIE

By: _____
Shannan M. Martin, Vice Mayor

ATTEST:

Sally Walsh, City Clerk

APPROVED AS TO FORM:

James D. Stokes, City Attorney