

## **CHAPTER 1300. CONCURRENCY, MOBILITY AND IMPACT FEES**

### **SECTION 1302. MOBILITY FEES**

#### **1302.2. Mobility Fees**

##### **A. Intent and Purpose**

1. The Board of County Commissioners (BCC) has determined and recognized through adoption of the Pasco County Comprehensive Plan that the growth rate which the County is experiencing will necessitate extensive, major transportation network improvements and make it necessary to regulate development activity generating new travel demands in order to maintain an acceptable level of transportation system capacity and quality of life in the County. In order to finance the necessary new capital improvements and regulate travel generation levels, several combined methods of financing will be necessary; one of which will require development activity generating new transportation demands to pay a mobility fee which does not exceed a pro rata share of the reasonably anticipated expansion costs of transportation facilities.
2. Providing for and regulating transportation facilities to make them safer and more efficient is the recognized responsibility of the County through Sections 125.01(1)(l), (m), and (w), Florida Statutes, and the Pasco County Comprehensive Plan, and is in the best interest of the public health, safety, and welfare.
3. It is the purpose of this section to establish a regulatory fee to assist in providing increased capacity for the transportation system to accommodate the increased impacts development will have on the transportation system. Development activity generating new travel demands will require the payment of a mobility fee which shall not exceed a pro rata share of the reasonably anticipated costs of new transportation facilities that its presence necessitates. This is accomplished by requiring a mobility fee upon commencement of any development activity generating new travel demands. This mobility fee is for the exclusive purpose of providing increased capacity for the transportation system.
4. It is the purpose of this section to implement many of the tools and techniques identified and encouraged by the State Legislature in Sections 163.3180(5)(f) and (i), Florida Statutes, and identified by the BCC in the Pasco County Comprehensive Plan. These tools and techniques will substantially advance the public purposes of job creation, and reduction of energy, infrastructure, and service costs; i.e., public safety, that typically result from lower density/sprawl-type development patterns.

These tools and techniques include:

- a. Adoption of long-term strategies to facilitate development patterns that support multimodal solutions;
- b. Adoption of an area-wide Level of Service (LOS) not dependent on any single road segment function;
- c. Exempting or discounting impacts of development in urban areas, redevelopment, job creation, and mixed use on the transportation system;
- d. Assigning a greater priority to ensuring a safe, comfortable, and attractive bicycle/pedestrian environment, with convenient access to transit; and
- e. Reducing mobility fees to promote development within existing and planned urban areas, development that results in job creation, and development of compact, mixed use, energy-efficient development, such as Transit-Oriented Development (TOD), Traditional Neighborhood Development (TND), and development that incorporates Mixed-Use Trip Reduction Measures (MUTRM).

Because applicable law requires that revenue sources other than those deriving from mobility fees be utilized to provide targeted discounts or reductions of mobility fees for development in urban areas; development that results in job creation; compact, mixed use, energy efficient development; and other locally desired development, it is the purpose of this section to ensure that revenue sources other than mobility fees are utilized to provide these targeted discounts/reductions.

5. It is the purpose of this section to implement Policy TRA 1.7.2 of the Pasco County Comprehensive Plan which requires the adoption of a multimodal mobility plan and mobility fee that:
  - a. Is designed to encourage development of specific land uses in specific locations;
  - b. Includes assessments for roadways, transit, and bicycle/pedestrian facilities, including assessments for roadway facilities on the Strategic Intermodal System (SIS);
  - c. Promotes compact, mixed use, and energy efficient development; and
  - d. Does not assess new development for transportation backlogs or an amount that is in excess of the amount that is proportionate to the impacts of the new development.

6. The purpose of this section is to continue to enable the County to allow new development consistent with the adopted Comprehensive Plan and to regulate development activity generating new transportation demands, so as to require new development to share in the burdens of growth by paying its pro rata share for the reasonably anticipated expansion costs of transportation facilities. This will allow new growth to mitigate the burdens it places on County transportation facilities without unfairly or disproportionately placing this burden on the existing residents of the County.
7. The purpose of this section is to ensure that the County General Fund does not bear the full burden of administering and implementing a mobility fee program and to ensure that in addition to the mobility fee, an administration fee is charged to new development to administer and implement the mobility fee program, provided that the administration fee does not exceed the County's actual costs of administration and implementation.
8. It is not the purpose of this section to address all transportation impacts resulting from new development or to guarantee that all new development will be approved upon payment of a mobility fee. New development has other site specific and cumulative impacts on the transportation system that are regulated through other County land development regulations including, but not limited to, regulations relating to transportation corridor management, collector and arterial spacing, access management, substandard roads, secondary access, transportation analysis, and, where applicable, Development of Regional Impact (DRI) review. However, if such regulations require transportation mitigation for the same impacts addressed through the payment of mobility fees, such regulations provide for credits against mobility fees consistent with State and Federal law and this section.
9. It is not the purpose of this section to collect any money from development activity generating new transportation demands in excess of the actual amount necessary to offset the demand on the transportation system generated by the new development, plus an administration fee. It is specifically acknowledged that this section has approached the problem of determining the mobility fee in a conservative and reasonable manner. This section will only partially recoup the governmental expenditures associated with growth. To the extent existing development will continue to bear a share of the cost of future improvements of the transportation system, mobility fees have been reduced.

B. Findings

It is hereby ascertained, determined, and declared that:

1. The County has determined that transportation capital improvements are necessary to maintain current and/or projected levels of service.
2. The County has determined that currently available revenues will not be sufficient to provide the transportation capital improvements that are necessary to accommodate growth resulting from development.
3. The County is required to adopt a Comprehensive Plan containing a Capital Improvements Element (CIE) that considers the need and location of public facilities within its jurisdiction and the projected revenue sources that will be utilized to fund these facilities.
4. The implementation of a mobility fee to require future growth to contribute its fair share of the cost of growth necessitated transportation capital improvements is necessary and reasonably related to the public health, safety, and welfare of the people of the County.
5. Providing transportation capital improvements that are adequate for the needs of growth is in the general welfare of all residents of the County and constitutes a public purpose.
6. The County has elected to repeal transportation concurrency, and adopt an alternative mobility funding system consistent with Section 163.3180(5)(i), Florida Statutes.
7. Sections 163.3180(5)(f) and (i), Florida Statutes, encourage mobility funding systems that use one or more of the following tools and techniques:
  - a. Adoption of long-term strategies to facilitate development patterns that support multimodal solutions;
  - b. Adoption of an area-wide LOS not dependent on any single road segment function;
  - c. Exempting or discounting impacts of locally desired development, such as development in urban areas, redevelopment, job creation, and mixed use on the transportation system;
  - d. Assigning secondary priority to vehicle mobility and primary priority to ensuring a safe, comfortable, and attractive pedestrian environment, with convenient access to transit; and

- e. Reducing impact fees to promote development within urban areas and a balance of mixed use development in certain areas.

Because applicable law requires that revenue sources other than those derived from mobility fees be utilized to provide targeted discounts or reductions of mobility fees for development in urban areas; development that results in job creation; mixed use development; and other locally desired development, this section, and the Pasco County Code of Ordinances, Chapter 2, Article VI, Division 3, Multi-Modal Tax Increment, ensures that revenue sources other than mobility fees are utilized to provide these targeted discounts/reductions.

- 8. Comprehensive Plan Policy TRA 1.7.2 requires the adoption of a multimodal mobility plan and mobility fee that (a) is designed to encourage development of specific land uses in specific locations; (b) includes assessments for roadways, transit, and bicycle/pedestrian facilities, including assessments for roadway facilities on the SIS; (c) promotes compact, mixed use and energy efficient development; and (d) does not assess development for transportation backlogs or an amount that is in excess of the amount that is proportionate to the impacts of the development.
- 9. TOD, TND, and MUTRM are compact, mixed-use, bicycle/pedestrian-friendly, and energy-efficient forms of development encouraged by this section, the mobility fee, and the Comprehensive Plan.
- 10. Office, industrial, and lodging land uses are locally desired development that result in, or support, high-paying job creation and tourism, and are encouraged by this section, the mobility fee, and the Comprehensive Plan.
- 11. The County's South and West Market Areas, which make up the Urban Concentration Area designated pursuant to Comprehensive Plan Policy FLU 9.1.1, and which are designed herein as the "Urban" Assessment District "A," shall be considered the County's urban area, where development is encouraged by this section, the mobility fee, and the Comprehensive Plan.
- 12. The Long-Range Transportation Plan (LRTP) shall be considered the multimodal mobility plan required by Comprehensive Plan Policy TRA 1.7.2, and the Mobility Fee Study and mobility fee are based on the LRTP.
- 13. Mobility fee revenue is used to implement the needs of the LRTP consistent with Section 163.3180(5)(i), Florida Statutes.
- 14. The Mobility Fee Study, mobility fee, and this section comply with the requirements of Comprehensive Plan Policy TRA 1.7.2 and are

consistent with the State Legislature's encouraged direction in Sections 163.3180(5)(f) and (i), Florida Statutes.

15. Consistent with the requirements of Section 163.3180(5)(i), Florida Statutes, the County's mobility funding system and related transportation analysis regulations (see Section 901.12) are not used to deny, time, or phase an application for site plan approval, plat approval, final subdivision approval, building permits, or the functional equivalent of such approvals, provided that the developer agrees to pay mobility fees.
16. This section earmarks Villages of Pasadena Hills (VOPH) mobility fees and tax increment revenues consistent with the VOPH Financial Plan.
17. This section ensures that any participating municipality that wishes to join in the mobility fee program has an opportunity to do so, but does not require any participating municipality to join in.
18. Nonparticipating municipalities in the County have existing, independent programs to fund and construct transportation capital improvements, or any benefits resulting from transportation capital expenses in nonparticipating municipalities will be incidental and de minimis.
19. This section ensures that impacts to the SIS are addressed consistent with the Comprehensive Plan and requires consultation with the Florida Department of Transportation (FDOT) relating to SIS facilities consistent with the requirements of Section 163.3180(5)(h)1, Florida Statutes.
20. The County shall be divided into separate Mobility Fee Assessment Districts and Collection/Benefit Districts.
21. The Assessment Districts are based on the Market Areas in the Comprehensive Plan and generally depict those areas where the County has planned for urban, suburban, and rural forms of development. The Assessment Districts shall be utilized to create the differential mobility fee structure encouraged by the Comprehensive Plan and Sections 163.3180(5)(f) and (i), Florida Statutes,.
22. Based on the typical travel characteristics in the County set forth in the Mobility Fee Study, utilizing the Collection/Benefit Districts to regulate mobility fee expenditures is the best method of ensuring that the transportation capital improvements funded by mobility fees benefit development in the Collection/Benefit District paying the mobility fees.
23. Mobility fees paid pursuant to this section will be earmarked to separate mobility fee funds for use within the Collection/Benefit

Districts in which the mobility fees are collected, except as provided herein.

24. The creation, implementation, and administration of a mobility fee program includes preparing and updating the Mobility Fee Study, Mobility Fee Schedule, Mobility Fee Ordinance, and Multi-Modal Tax Increment Ordinance; calculation and collection of mobility fees; conversion, creation and administration of transportation impact fee (TIF) credits, mobility fee credits and development approvals relating to such credits; accounting systems for multiple mobility fee funds and accounts; coordination with participating municipalities, the Metropolitan Planning Organization, the FDOT, and the Tampa Bay Area Regional Transportation Authority; calculation and tracking of tax increment revenues and the required mobility fee subsidy; transportation analysis to determine priorities for mobility fee expenditures; and administration of mobility fee refunds. The Administration Fee Study and administration fee place a portion of the burden of implementing and administering a mobility fee program on development that creates the need for a mobility fee program, but also ensures that the administration fee does not exceed the County's actual cost of administration and implementation.
25. The Mobility Fee Study, Administration Fee Study, mobility fee, and administration fee shall be subject to review and update, pursuant to this Code, Section 1302.2.D, herein.
26. To the extent that the replacement of TIFs with mobility fees and administration fees results in an impact fee increase for any development, or otherwise adversely affects any development, this section ensures that such development shall be entitled to opt out of the mobility fee program for a period of time and remain subject to the payment of TIFs and transportation concurrency. In addition to the Opt-Out Procedure, development may mitigate any adverse impact resulting from the adoption of mobility fees through other avenues, including adjustments to land and rent prices, adjustments to entitlements, and sale or transfer of TIF credits and mobility fee credits.
27. To the extent that the replacement of TIFs with mobility fees and administration fees results in an impact fee reduction for any development, the BCC does not desire to apply such reduction to buildings with Building Permits issued prior to March 1, 2011, because such buildings were issued Building Permits prior to the BCC deciding to adopt reduced mobility fees , and applying the reduction to such buildings would skew the BCC's analysis of the effect of the mobility fee reduction on construction activity.
28. To the extent that the 2014 update of mobility fees and administration fees result in a mobility fee reduction for any development, the BCC does not desire to apply such reduction to buildings with Building

Permits issued prior to November 6, 2014, because such buildings were issued Building Permits prior to the BCC deciding to adopt reduced mobility fees for some uses in 2014, and applying the reduction to such buildings would skew the BCC's analysis of the effect of the mobility fee reduction on construction activity.

29. The BCC considered the short- and long-term, public and private costs and benefits of the Mobility Fee Study, Administration Fee Study, administration fee, and mobility fee and has determined that sufficient information has been provided to enable the BCC to act.
30. The BCC further finds that the provisions of this section are in compliance with the "dual rational nexus test" established by the Florida Supreme Court and other applicable law; therefore, the County's mobility fee funding system complies with Section 163.3180(5)(i), Florida Statutes.

C. Adoption of Mobility Fee and Administration Fee Studies

The BCC hereby adopts and incorporates by reference the following studies:

1. The County Multi-Modal Mobility Fee Study Final Report dated July 7, 2011, prepared by Tindale-Oliver & Associates, Inc., as updated by the Report, dated October 14, 2014 (the Mobility Fee Study).
2. Pasco County Calculation of County Cost to Administer Impact Fees, dated December 7, 2009, and prepared by Maximus Consulting Services, Inc. (Maximus Study), and Pasco County Calculation of County Cost to Administer Transportation Impact Fees or Mobility Fees, adapted from the Maximus Study, dated May 31, 2011, prepared by Daniel Risola, Budget Manager, as updated by the Report, dated April 24, 2014 (collectively, the Administration Fee Study).

D. Review and Update

The mobility fee and administration fee are based on the assumptions and analysis in the Mobility Fee Study and Administration Fee Study. No later than December 31, 2017, and no later than every three (3) years thereafter, the County shall conduct a full re-evaluation and update of the assumptions and analysis in the Mobility Fee Study and Administration Fee Study and of all components of the mobility fee and administration fee.

If a mobility fee subsidy deficiency exists at the time mobility fees are reevaluated, a nonmobility fee repayment source for the deficiency shall be identified in the next fiscal year following the completion of the reevaluation, and the amount of such deficiency shall be transferred to the Mobility Fee Fund containing such deficiency within a reasonable time period, not to exceed five (5) years from the date of the reevaluation. Nothing herein shall prevent the County from updating the mobility fee or administration fee earlier than every three (3) years if the County determines that significant changes in

the Mobility Fee Study or Administration Fee Study assumptions have occurred and that such changes are likely to have a significant affect on the amount of the mobility fees or administration fees. In addition, nothing herein shall prevent the County from making deficiency transfers to the mobility fee funds at any time in order to ensure that the requirements of this section are met and that adopted LOS standards are maintained as provided herein and in the Mobility Fee Study.

E. Applicability

1. This section shall apply to all lands located within the County and in any participating municipality.
2. Mobility Fee Assessment Districts
  - a. Consistent with the purpose and intent of this section, the County and participating municipalities have been divided or placed into three Assessment Districts, as depicted on Exhibit C. The Assessment District labeled "A" shall be considered the "Urban" Assessment District, and development within such district is subject to the "urban" mobility fees in the Mobility Fee Schedule. The Assessment District labeled "B" shall be considered the "Suburban" Assessment District, and Development within such district is subject to the "suburban" mobility fees in the Mobility Fee Schedule. The Assessment District labeled "C" shall be considered the "Rural" Assessment District, and development within such district is subject to the "rural" mobility fees in the Mobility Fee Schedule.

Generally, if any contiguous building, development, or planned development is located in more than one (1) Assessment District, the entire building, development, or planned development shall be subject to the mobility fees in the Assessment District with the lower mobility fees. However, if the portion of a development or planned development in the Assessment District with the lower mobility fees constitutes less than fifteen (15) percent of the total development or planned development gross land area, the entire Development or Planned Development shall be subject to the mobility fees in the Assessment District where the majority of the development or planned development gross land area is located. If a development or planned development is located in more than one (1) Assessment District and a portion of the development or planned development is not contiguous with the remainder of the development or planned development, e.g., separated by a collector or arterial roadway or water body, the noncontiguous portion of the development or planned development shall be subject to the mobility fees in the Assessment District in which it is located, regardless of

where the remainder of the development or planned development is located.

- b. The Mobility Fee Assessment Districts are to be utilized solely to determine which mobility fees a Building Permit or Development Permit is required to pay and to determine the amount of the required mobility fee subsidy. Mobility Fee Assessment Districts shall not be considered Collection/Benefit Districts.
- c. To ensure consistency with the Market Areas in the Comprehensive Plan, if any of the Comprehensive Plan Market Area boundaries are amended after the effective date of this amended and restated section, the Assessment District boundary map (Map 1302.2-A) shall be amended to be consistent with the Market Area boundaries prior to or concurrently with the next full re-evaluation and update of the Mobility Fee Study required by this Code, Section 1302.2.D.

F. Procedures for Imposition, Calculation, and Collection of Mobility and Administrative Fees

1. Imposition of Mobility Fee and Administration Fee

- a. The mobility fee and administration fee shall be assessed upon the issuance of a Building Permit for any development and shall be collected and paid prior to the issuance of the Certificate of Occupancy (CO) for the development. In the event a Building Permit or CO is not required for development which is subject to the provisions of this section, then the mobility fee and administration fee shall be assessed upon the issuance of a Development Permit authorizing commencement of the development and collected and paid prior to final site inspection. The mobility fee and administration fee shall apply to complete applications for a Building Permit, and Building Permits issued (or Development Permits where no Building Permit is required) on or after March 1, 2011, unless such Building Permit or Development Permit is part of an Opt-Out Development. Any person that submitted a complete application for a Building Permit, or that was issued a Building Permit, on or after March 1, 2011, and that was assessed, or paid, the TIF may elect to pay the applicable mobility fee and administration fee; however, such election shall be made in writing to the Building Construction Services Department no later than ninety (90) days after the issuance of the CO (or final site inspection where no CO is required). If such election is made after the TIF has been paid, a refund shall be due for the difference between (a) the TIF and (b) the mobility fee, plus the administration fee. Such refund shall be applied for and paid in accordance with the refund procedures in this

Code, Section 1302.1.H. If the TIF was paid using transportation impact credits, the refund shall be issued to the credit account from which the credits originated, upon the County receiving proof acceptable to the Clerk & Comptroller's Office that (1) the owner of such credits has provided a refund to the person that paid the TIF with TIF credits, and (2) the transit mobility fee and administration fee have been paid.

- b. Any changes to the mobility fee and administration fee resulting from the 2014 Mobility Fees Update shall apply to complete applications for a Building Permit, and Building Permits issued (or Development Permits where no Building Permit is required) on or after November 6, 2014. Building Permits and Development Permits issued on or after March 1, 2011, and prior to November 6, 2014, shall be assessed the applicable mobility fee and administration fee pursuant to the 2011 rates in the Mobility Fee Schedule, and shall pay the assessed mobility fee and administration fee prior to the issuance of the CO (or final site inspection where no CO is required), even if the Building Permit or Development Permit expires, or is revoked.
  - c. Building Permits and Development Permits issued prior to March 1, 2011, were assessed the applicable TIF pursuant to the Transportation Impact Fee Ordinance and shall pay the assessed TIF prior to the issuance of the CO (or final site inspection where no CO is required), even if the Building Permit or Development Permit expires, or is revoked. Opt-Out Developments shall be assessed and pay the applicable TIF in the Transportation Impact Fee Schedule. Building Permits, Development Permits, and Opt-Out Developments required or electing to pay the TIF shall not be assessed an administration fee, and shall otherwise be subject to the Transportation Impact Fee Ordinance.
  - d. No mobility fee or administration fee shall be assessed upon the issuance of a commercial retail shopping center Building Permit, Foundation Permit, or a nonretail multiuse Building Permit for an unfinished building; i.e., a Shell Permit. Each individual use shall thereafter be assessed the applicable mobility fee and administration fee based on the calculations set forth below upon subsequent issuance of a Building Permit to finish each unit.
2. Calculation of Mobility Fees and Administration Fees
- a. Upon receipt of a complete application for a Building Permit (or prior to the issuance of a Development Permit where a Building Permit is not required) the County Administrator or designee shall calculate the applicable mobility fee and

administration fee, incorporating any applicable credits. If a person has received a credit pursuant to Section 1302.2.G.4.b, that credit shall be subtracted from the otherwise applicable mobility fee, if such credit applies. Credits shall not be utilized for, or subtracted from, administration fees. A person may request at any time a nonbinding estimate of the mobility fee or administration fee due for a particular development; however, such estimate is subject to change when a complete application for a Building Permit or Development Permit is made.

- b. The mobility fee shall be calculated by using (1) Independent Mobility Fee Studies in accordance with Section 1302.2.G.3 herein or (2) the Mobility Fee Schedule, attached as Figure 1302.2-A. The mobility fees in the Mobility Fee Schedule have been calculated using the formula(s) presented in the Mobility Fee Study. The mobility fee required to be paid by each land use is in the Mobility Fee Schedule column labeled "Net Mobility Fee," and this dollar amount shall be multiplied by the number of units in the development seeking a Building Permit or Development Permit for such land use. The base unit for this calculation is set forth in the "Unit" column for each land use in the Mobility Fee Schedule. The applicable Assessment District for each mobility fee calculation shall be determined in accordance with this Code, Section 1302.2.F.2.
  
- c. The calculation of the administration fee is set forth in the Administration Fee Study and shall be paid in addition to any required mobility fee. The administration fee shall be Three Hundred Ninety-Two and 00/100 Dollars (\$392.00) for each Building Permit issued for a land use classified as residential in the Mobility Fee Schedule, even if the "Net Mobility Fee" column in the Mobility Fee Schedule shows a \$0.00 mobility fee for such land use. The administration fee shall be Three Hundred Ninety-Two and 00/100 Dollars (\$392.00) for each Building Permit (or Development Permit if no Building Permit is required) issued for a land use classified as lodging, recreation, institution, office, retail, or industrial in the Mobility Fee Schedule, even if the "Net Mobility Fee" column in the Mobility Fee Schedule shows a \$0.00 mobility fee for such land use. The administration fee for alterations shall be Three Hundred Ninety-Two and 00/100 Dollars (\$392.00) for each Building Permit issued for a land use classified as residential in the Mobility Fee Schedule, even if the "Net Mobility Fee" column in the Mobility Fee Schedule shows a \$0.00 mobility fee for such land use. The administration fee for alterations shall be Three Hundred Ninety-Two and 00/100 Dollars (\$392.00) for each Building Permit (or Development Permit if no Building Permit is required) issued for a land use classified as lodging, recreation, institution, office, retail, or industrial in

the Mobility Fee Schedule, even if the "Net Mobility Fee" column in the Mobility Fee Schedule shows a \$0.00 mobility fee for such land use. The administration fee shall be calculated solely based on the number of Building Permits (or Development Permits if no Building Permit is required) issued for a development, and the square footage or size of the development shall not be a factor in the calculation of an administration fee. In addition, the Assessment District location of a development shall not affect the calculation of the administration fee.

- d. A person shall not be entitled to any "age restricted" rate in the Mobility Fee Schedule until such person has recorded deed restrictions in a form acceptable to the County Attorney's Office (CAO) ensuring that the property subject to the mobility fee will remain age-restricted. In the event deed restrictions acceptable to the CAO have not been recorded by the time the CO is issued, the person may pay the applicable nonage-restricted rate, and, if the deed restrictions acceptable to the CAO are later recorded, a refund shall be due to the extent the mobility fee paid was greater than the applicable age-restricted rate. However, unless the person is entitled to a refund pursuant to another provision of this section, no refund shall be due for mobility fees or TIFs paid before the County adopted an age-restricted rate for the land use classification that paid the fees. Refunds shall be in accordance with the procedures in this Code, Section 1302.1.
- e. A person shall be eligible for the "Less than 1,500 square feet and Annual Household Income less than eighty (80) percent SHIP Definition" rate or "Low Income SHIP Defined Multi-Family" rate in the Mobility Fee Schedule (Affordable Housing Rate) if the residence is a single-family detached dwelling unit less than 1,500 square feet or a multiple family building or dwelling unit that is affordable to a family with a median income that does not exceed eighty (80) percent of the median income for the Tampa-St. Petersburg-Clearwater standard metropolitan statistical area. To qualify for the Affordable Housing Rate, the dwelling unit, or the larger planned development that includes the dwelling unit, or the multiple family building, as applicable, must be designated as affordable by the County Administrator or designee consistent with the foregoing definition and applicable Federal, State, and local income and expense criteria for affordable housing and must be sold or leased to a family that satisfies the foregoing income criteria, as determined by the County Administrator or designee. The County shall impose deed restrictions, mortgage requirements, and/or liens that ensure that any dwelling unit or multiple-family building that is assessed the Affordable Housing Rate remains affordable. The owner of

any dwelling unit or multiple family building that was assessed the Affordable Housing Rate that resells or leases such dwelling unit at a price that is no longer affordable or resells or leases such dwelling unit to a family that does not satisfy the foregoing income criteria, as determined by the County Administrator or designee consistent with the foregoing definition, shall be required to pay to the County the difference between the Affordable Housing Rate and the rate that such unit or building would have been assessed had such unit or building not qualified for the Affordable Housing Rate. Failure to pay the difference shall be considered a violation of this section which shall make the owner subject to the County enforcement provisions of this section, in addition to any other remedies of the County as set forth in the County imposed deed restrictions, mortgage requirements, and/or liens.

- f. Land uses that are not specifically listed in the Mobility Fee Schedule shall be assigned the trip generation rate of the most similar land use as listed in the Impact Fee Land Use Cross-Reference Table, found in Appendix A of the Administrative Procedures Manual. If a similar land use is not listed in this table, then trip generation rates from the Institute of Transportation Engineers Trip Generation Report (ITE) Manual shall be used to determine the trip generation of the unlisted land use, and such land use shall be assigned the rate of the land use listed in the Mobility Fee Schedule with the most similar trip generation. If the unlisted land use is not listed in the ITE Manual, then the trip generation rates of the most similar land use in the ITE Manual shall be used to determine the trip generation rate of the unlisted land use.
- g. A mobility fee shall be imposed and calculated for an alteration creating an increased demand for or impact on transportation capital improvements, where the alteration results in a higher assessment pursuant to the Mobility Fee Schedule and this section. The mobility fee for an alteration shall be due and paid prior to the issuance of any permit issued by the County authorizing the alteration, even if such permit is not a Building Permit. The mobility fee imposed under the Mobility Fee Schedule as a result of an alteration shall be calculated as follows:
  - (1) If the alteration results in an increased demand for or impact on transportation capital improvements, and results in a higher assessment pursuant to the Mobility Fee Schedule, then the alteration shall be assessed the current applicable mobility fee rate based on the new use of the property after the alteration less the mobility fee that would be imposed on the most recent prior use of the property under the current applicable

mobility fee rate prior to the alteration. For purposes of this calculation, "most recent prior use of the property" shall mean the latest use of the property existing on or after January 1, 1985. If the most recent prior use of the property (a) was issued a Building Permit, CO, or final inspection prior to March 1, 2011; or (b) otherwise paid TIFs, then the difference between the applicable mobility fee rates shall be calculated for the alteration using the "Fee Before Buy-Down" column of the Mobility Fee Schedule or the "Net Mobility Fee" column in the Mobility Fee Schedule, whichever is less. For all other alterations, the difference shall be calculated using the "Net Mobility Fee" column of the Mobility Fee Schedule.

- (2) If the square footage of a dwelling unit is increased cumulatively by 500 square feet or more from the square footage of the dwelling unit existing on or after October 1, 2007 (or the most recent dwelling unit in existence on or after January 1, 1985, if the dwelling unit did not exist on or after the effective date of October 1, 2007), and the result of which is a higher assessment pursuant to the Mobility Fee Schedule, then the alteration shall be assessed the current applicable mobility fee rate based on the new dwelling unit after alteration less the mobility fee that would be imposed on the most recent prior dwelling unit under the current applicable mobility fee rate prior to the alteration. For purposes of this calculation, "most recent prior dwelling unit" shall mean the latest dwelling unit on the property existing on or after January 1, 1985. If the most recent prior dwelling unit (a) was issued a Building Permit, CO, or final inspection prior to March 1, 2011; or (b) otherwise paid TIFs, then the difference between the applicable mobility fee rates shall be calculated for the alteration using the "Fee Before Buy-Down" column of the Mobility Fee Schedule or the "Net Mobility Fee" column in the Mobility Fee Schedule, whichever is less. For all other alterations, the difference shall be calculated using the "Net Mobility Fee" column of the Mobility Fee Schedule.

- h. "Multiuse Building" shall mean a development project in which more than one (1) mobility fee land use category is contemplated to be constructed. For multiuse buildings, parcels, office/industrial parks, and shopping centers, if one (1) use occupies thirty-five (35) percent or more of the total, gross square feet of the building, parcel, office/industrial park, or shopping center or one (1) use is 30,000 square feet or more,

that use shall be assessed at its specific-use rate. All uses that do not exceed thirty-five (35) percent or more of the total gross square feet of the building, parcel, office/industrial park, or shopping center and that do not exceed 30,000 square feet or more shall be assessed the rate of the most predominate general use of the remainder of the building, parcel, office/industrial park, or shopping center based on the size of the entire building, parcel, office/industrial park, or shopping center. This rule does not apply to out-parcels or residential uses, which shall be assessed the applicable rate for the specific single use, and which shall not be used in the calculation of the size of the entire building, parcel, office/industrial park, or shopping center. This rule also does not apply to uses classified in the Mobility Fee Schedule as recreation, institutions, or retail if the most predominate use of the remainder of the building, parcel, or office/industrial park is lodging, office, or industrial; in such cases, the recreation, institutions, or retail use shall be assessed at its specific-use rate, regardless of the size of such use, unless the use is an accessory building or structure.

- i. A development shall not be entitled to the TOD rates in the Mobility Fee Schedule unless one (1) of the following occurs:
  - (1) The development is a TOD that has completed, and received BCC approval of, a Transit Station Area Plan pursuant to Comprehensive Plan Policy FLU 10.3.6; or
  - (2) The development is a TOD that (a) is located in a Transit Center Overlay established pursuant to Comprehensive Plan Policy FLU 10.3.1, (b) complies with the TOD Design Principles in Comprehensive Plan Policy FLU 10.3.6(f), and (c) complies, or agrees to comply, with the future TOD Design Ordinance required, pursuant to Comprehensive Plan Policy FLU 10.2.1.
- j. Within the VOPH, the amount of the mobility fee was modified, and surcharges were assessed to pay for VOPH transportation capital improvements, as more fully set forth in the Villages of Pasadena Hills Financial Plan. These modifications and surcharges to the mobility fee are set forth in this Code, Section 602.

### 3. Independent Mobility Fee Study

- a. Any person (1) who believes that any part of the demand component, comprised of trip length, trip rate, and percent new trips, that is used to calculate the mobility fee of the applicable land use is incorrect, or (2) who has a unique or restrictive land use that can be verified through the County's Building

Permit process and believes that this results in different demand characteristics than those of the land use the development is to be assessed at, or (3) whose land use is not listed in the Mobility Fee Schedule, or believes the use is incorrectly assigned in the Mobility Fee Schedule, shall have the option to provide an Independent Mobility Fee Study according to procedures set forth in the Administrative Procedures Manual. The Independent Mobility Fee Study is not intended to allow site-specific review of uses, which include (1) conducting an Independent Mobility Fee Study on the same site for which the mobility fee is being challenged, or (2) conducting an Independent Mobility Fee Study on sites that may have differing trip characteristics than used in the Mobility Fee Schedule due to specific characteristics of the development that cannot be tracked by the County's Building Permit process. For any Independent Mobility Fee Study, only the demand variables may be challenged, and all three demand variables, including trip length, trip rate, and percent new trips, must be reviewed as part of the Independent Mobility Fee Study. Requests for an Independent Mobility Fee Study must be received no later than sixty (60) days after the issuance of a Building Permit (or Development Permit where no Building Permit is required). If the Independent Mobility Fee Study cannot be completed, reviewed, and finally determined by the County Administrator or designee, including any appeals, by the time the CO is issued for the development, the applicant shall pay the applicable mobility fee in the Mobility Fee Schedule. However, if the Independent Mobility Fee Study is eventually accepted by the County after the issuance of the CO, a refund shall be due to the extent the mobility fee paid was higher than the mobility fee due pursuant to the Independent Mobility Fee Study. Refunds shall be in accordance with the procedures in this Code, Section 1302.1.H.

- b. The Independent Mobility Fee Study shall follow the procedures and criteria in the Administrative Procedures Manual, and the County Administrator or designee shall be authorized to reject any Independent Mobility Fee Study not meeting such criteria. The County may charge a review fee for the Independent Mobility Fee Study, as set forth in the Administrative Procedures Manual, which shall not exceed the actual cost of reviewing the Independent Mobility Fee Study. The Independent Mobility Fee Study review fee is in addition to the required administration fee.

4. Exemptions and Credits

- a. The following shall be exempted from payment of the mobility fee and administration fee:

- (1) Alterations which do not result in a higher assessment pursuant to the Mobility Fee Schedule.
- (2) Alterations of a dwelling unit that after October 1, 2007 (or after the most recent dwelling unit in existence after January 1, 1985, if the dwelling unit did not exist after October 1, 2007), cumulatively equals an increase of less than 500 square feet.
- (3) Government Buildings. However, any mobility fee exemption issued for a government building shall expire if an alteration causes the building or development to no longer be a government building. Any mobility fee exemption issued for a government building shall be considered a subsidy or buy-down for the government building, and shall be included in the mobility fee subsidy calculation and transfer required by this Code, Subsection 1302.2.G.1.b.
- (4) Alterations of buildings in the West Market Area. This exemption does not apply to (a) the administration fee, (b) alteration building permits issued prior to April 9, 2014, (c) alterations to any office, industrial or lodging building that was permitted after the initial effective date of mobility fees pursuant to this Code, Section 1302.2.F.1.a., or (d) lots, parcels, or planned developments where fifty (50) percent or more of the developable portion of the lot, parcel, or planned development consists of vacant land that was not previously occupied by a building, or impervious surface associated with a building. Any mobility fee exemption issued for the West Market Area building alterations shall be considered a subsidy or buy-down for the alteration, and shall be included in the mobility fee subsidy calculation, and transfer required by this Code, Section 1302.2.G.1.b. The amount of such subsidy or buy-down shall be the required mobility fee for an alteration pursuant to this Code, Section 1302.2.F.2.g.

b. Credits

- (1) A person may elect or be required by a development approval to construct, convey right-of-way for, or pay cash for a transportation capital improvement. Such person is eligible to receive credits on a dollar-for-dollar basis against the portion of the mobility fee mitigated by such construction, right-of-way conveyance, or payment. However, transit facilities provided by a

person shall only be eligible for a credit against the transit mobility fee, bicycle/pedestrian facilities provided by a person shall only be eligible for credit against the bicycle/pedestrian mobility fee, and roadway facilities provided by a person shall only be eligible for credit against the roadway mobility fee. Construction, right-of-way conveyances, and cash payments for site access improvements are not eligible for credits against the mobility fee, unless specifically approved by the BCC in a development approval. To be entitled to credits, the transportation capital improvement must be included in the CIP however, the person shall not receive the credits until the year the transportation capital improvements are scheduled for construction in the CIP, unless the County Administrator or designee or BCC agrees in a development approval to provide credits at an earlier date. A person shall also be entitled to credits if the transportation capital improvement is (a) included in the LRTP or Comprehensive Plan, and (b) a mobility fee credit is required pursuant to another land development regulation, such as the County's transportation corridor management or transportation concurrency regulations (for Opt-Out Developments), or is specifically approved by the BCC in a development approval.

- (2) If a person elects or is required to construct transportation capital improvements, the person shall submit evidence of payment for the construction to the County Administrator or designee. The County Administrator or designee shall determine if the construction is an appropriate substitute for the mobility fee, based on the provisions of this section, the amount of credit to be given, and the timetable for the credit. The amount of credit for right-of-way conveyances shall be 115 percent of the assessed value of the conveyed right-of-way as determined by the County Property Appraiser, unless the person and the County Administrator or designee or BCC agrees in a development approval to another credit amount. The date of valuation shall be the date of the development approval requiring the conveyance of the right-of-way or the date of right-of-way conveyance, whichever occurs first, unless the person and the County Administrator or designee or BCC agree to another date of valuation.
- (3) Application for credits shall be made within ninety (90) days of the completion of construction of the

transportation capital improvement eligible for the credit, unless the BCC agrees to another deadline for application. Failure to apply for a credit by the applicable deadline shall be deemed a waiver of the right to the credit.

- (4) Credits may be sold or transferred within the Collection/Benefit District in which the mobility fee is collected, or in an adjacent Collection/Benefit District if the County Administrator or designee makes the written determination required by this Code, Section 1302.2.H.2.(a), for the transportation capital improvement for which the credits were issued. If the credits were established for a planned development, the sale or transfer of such credits shall not be permitted outside of the planned development until (a) Building Permits for all of the entitlements in the planned development have been issued, as set forth in the planned development's development approvals, or (b) upon completion of eighty (80) percent or more of a DRI planned development's entire proportionate share/pipeline project obligations (measured in terms of linear feet), if such obligations were eighty (80) percent or more complete prior to the effective date of this amended and restated section. Notwithstanding the foregoing, DRI planned developments that are able to sell or transfer credits based solely on the completion of eighty (80) percent or more of their entire proportionate share/pipeline project obligations shall not be entitled to sell or transfer credits to other DRI planned developments that are able to sell or transfer credits based solely on the completion of eighty (80) percent or more of their entire proportionate share/pipeline project obligations.
- (5) Any credit will be issued to the person who paid for or financed the construction of the transportation capital improvement, or cash payment in lieu of construction, or who conveyed the right-of-way for which the credit was established, or his successor or assign, as determined by the County Administrator or designee.
- (6) To transfer credits, the owner of the credits must submit to the County Administrator or designee a letter, signed and notarized by the owner of the credits, which specifies the name of the person receiving the transfer of credits and the amount of the credit being transferred. Regardless of the date of transfer, the transfer of the credit shall not be effective until the

transfer letter is received and accepted by the County Administrator or designee.

- (7) After July 20, 2011, existing, established transportation impact fee credits shall be converted, on a dollar for dollar basis, to credits against the roadway mobility fee and bicycle/pedestrian mobility fee, unless such credits are owned by an Opt-Out Development. Converted transportation impact fee credits may not be utilized to pay the transit mobility fee or administration fee.

## 5. Payment/Collection

- a. Except for Opt-Out Developments, a person shall pay the mobility fees and administration fees as set forth in Section 1302.2.G, herein, unless and only to the extent that:
  - (1) The person is determined to be entitled to a credit pursuant to Subsection 1302.2.G.4.(b); or
  - (2) The person is determined to be exempt from the payment of mobility fees pursuant to Subsection 1302.2.G.4.(a).
- b. The mobility fee shall be paid prior to the issuance of a CO. Where a CO is not required, the mobility fee shall be paid prior to final inspection.
- c. Mobility fees collected by the County shall be held in mobility fee funds separate and distinct from all other County revenues, except for interest accruing on the accounts and the deposit of mobility fee subsidy transfers into the mobility fee funds, as provided expressly in this section.
- d. The payment of the mobility fee and administration fee shall be in addition to all other fees, impact fees, charges, or assessments due for the issuance of a Building Permit, a Development Permit, a CO, or a final inspection.
- e. The obligation for payment of the mobility fee shall run with the land.

## 6. Enforcement

- a. Enforcement of this section may be through methods described in Chapter 108.
- b. Violations include, but are not limited to, failing, neglecting, or refusing to pay a mobility fee as required by this section and/or furnishing untrue, incomplete, false, or misleading information

on any document, or to any County employee, concerning the calculation, exemption, or payment of a mobility fee or concerning the entitlement to, or calculation of, a mobility fee credit.

- c. The owner, tenant, or occupant of any land or part thereof for which a mobility fee is owed and any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this section, or who fails, neglects, or refuses to pay a mobility fee, or who furnishes any untrue, incomplete, false, or misleading information concerning the calculation, exemption, or payment of a mobility fee or concerning the entitlement to, or calculation of, a mobility fee credit, may be held responsible for the violation and be subject to the penalties and remedies provided for in this Code and/or the Pasco County Code of Ordinances.
- d. Failure to pay a mobility fee required by this section is a violation that is continuous with respect to time, and each day the violation continues, or the mobility fee remains unpaid, is hereby declared to be a separate offense.

G. Establishment of Mobility Fee Funds and Collection/Benefit Districts, Appropriation of Mobility Fee Funds and Refunds

1. Mobility Fee Funds and Collection/Benefit Districts

- a. There are hereby established three (3) separate mobility fee funds, one (1) for each Collection/Benefit District as shown in Exhibit D.

The mobility fee funds shall be considered special revenue funds. Within each mobility fee fund, separate account numbers shall be established for the roadway mobility fee, the transit mobility fee, the bicycle/pedestrian mobility fee, and the SIS mobility fee. In addition, a separate fund shall be established for VOPH mobility fees, with separate account numbers for the SIS mobility fee, roadway mobility fee, and bicycle/pedestrian mobility fee.

Mobility fees shall, upon receipt by the County, be deposited into the mobility fee fund for the Collection/Benefit District in which the mobility fee was collected, or the VOPH fund, and separated into the accounts and subaccounts set forth above.

For example, if a mobility fee for an "urban" multiple family dwelling unit is collected in Collection/Benefit District 1 based on 2011 rates, Nine Hundred Sixteen and 00/100 Dollars (\$916.00) shall be deposited in the SIS mobility fee account in

the Mobility Fee Collection/Benefit District 1 Fund; Two Thousand Eight Hundred Seventy-Three and 00/100 Dollars (\$2,873.00) shall be deposited in the roadway mobility fee account in the Mobility Fee Collection/Benefit District 1 Fund; Ten and 00/100 Dollars (\$10.00) shall be deposited in the transit mobility fee account in the Mobility Fee Collection/Benefit District 1 Fund; and One Hundred Seventy-Two and 00/100 Dollars (\$172.00) shall be deposited in the bicycle/pedestrian mobility fee account in the Mobility Fee Collection/Benefit District 1 Fund.

- b. In addition to the foregoing deposits, the County shall calculate the mobility fee subsidy required by Chapter 2, Article VI, Division 3 of the Code of Ordinances, Multi-Modal Tax Increment, for each Collection/Benefit District, and transfer any required mobility fee subsidy and mobility fee subsidy deficiency from the Multi-Modal Transportation Fund into the mobility fee funds in accordance with the requirements of Chapter 2, Article VI, Division 3 of the Code of Ordinances, Multi-Modal Tax Increment.

If a mobility fee subsidy or deficiency transfer is required pursuant to Chapter 2, Article VI, Division 3 of the Code of Ordinances, Multi-Modal Tax Increment, for any Collection/Benefit District, the transfer shall be allocated among the roadway, transit, bicycle/pedestrian, and SIS mobility fee accounts, as applicable, within each Collection/Benefit District, based on the percentage of mobility fees deposited into each account within each Collection/Benefit District during the fiscal year(s) in which the mobility fee subsidy or mobility fee subsidy deficiency was calculated.

Notwithstanding the foregoing, if any portion of the Villages of Pasadena Hills Tax Increment Revenues is utilized for a mobility fee subsidy or mobility fee subsidy deficiency transfer, such revenues shall be placed in the VOPH fund. In addition, if any portion of a participating municipality's tax increment revenues is utilized for a mobility fee subsidy or mobility fee subsidy deficiency transfer, such revenues shall be transferred to a separate fund earmarked for the participating municipality or transferred to the participating municipality and shall be utilized solely for the participating municipality's transportation capital improvements, as more fully set forth in the County interlocal agreement with the participating municipality.

- c. Participating municipality mobility fees shall be collected and deposited in accordance with the interlocal agreement with the participating municipality. If any portion of a participating municipality's mobility fees is transferred to the County, e.g.,

the mobility fees or SIS mobility fees, such portion shall be deposited into the Mobility Fee Fund for the Collection/Benefit District in which the participating municipality is located.

- d. Assessment Districts shall not be utilized to determine where mobility fees, mobility fee subsidies, or mobility fee subsidy deficiencies are appropriated or expended.
  - e. Administration fees shall be deposited into the County's Municipal Service Fund and then allocated or transferred to other County funds based on the percentage that each fund or County department contributes to the administration and implementation of mobility fees. The allocation of the administration fee shall be based on the assumptions in the Administration Fee Study or shall utilize another tracking method ensuring that (1) the administration fee is allocated among County departments based on the amount of time each department spends administering and implementing mobility fees; and (2) the administration fee does not exceed the County's actual cost of mobility fee administration and implementation.
  - f. The Office of Management and Budget or the Clerk & Comptroller's Office shall establish and implement necessary accounting and reporting controls to ensure that all administration fees, mobility fees, and mobility fee subsidy and deficiency transfers, are properly deposited, accounted for, reported, and appropriated in accordance with this section and any other applicable legal requirements.
2. Appropriation of Mobility Fee Funds
- a. Mobility fee funds shall be used by the County solely for transportation capital expenses included in the CIP, LRTP, or Comprehensive Plan and that benefit new development. Mobility fee funds shall not be used for any expenditure that would be classified as a transportation operation and maintenance expense. The mobility fee shall be used within the Collection/Benefit District from which the mobility fee is collected; however, to the extent that a transportation capital improvement provides reasonable benefits beyond the Collection/Benefit District within which it is located, it may be funded with mobility fee funds collected from an adjacent Collection/Benefit District.

However, prior to encumbering any mobility fee funds in this manner, the County Administrator or designee shall make a written determination that (1) the transportation capital improvement will substantially benefit the development in the Collection/Benefit District from which the mobility fees have

been collected; (2) the planned transportation capital improvement is of a nature such that it will add capacity to the transportation system beyond the Collection/Benefit District in which it is situated; and (3) the demand for the transportation capital improvement is reasonably attributable to development in the Collection/Benefit District from which the mobility fees have been collected.

- b. As a general rule, transit mobility fees shall be used for transit facilities, bicycle/pedestrian mobility fees shall be used for bicycle/pedestrian facilities, and roadway mobility fees shall be used for roadway facilities. However, one (1) or more types of mobility fees may be used to the extent that a transportation capital improvement contains multiple facilities; e.g., a roadway project with a multiuse trail and transit shelters, or to the extent that a particular transportation capital improvement provides a benefit to multiple facilities; e.g., a bus that reduces travel on a roadway or a sidewalk that accesses a transit stop, as determined by the County Administrator or designee.
  - c. The SIS mobility fee shall be reserved for roadway facilities, transit facilities, and bicycle/pedestrian facilities that provide a benefit to the SIS. Prior to budgeting the SIS mobility fees, the County shall consult with the Florida Department of Transportation to establish priorities for the expenditure of the SIS mobility fees and to ensure that such expenditures provide a benefit to the SIS. The priorities for expending the SIS mobility fees shall be consistent with the adopted LRTP. Consistent with the Villages of Pasadena Hills Financial Plan, the SIS mobility fee in the VOPH fund may be utilized for transportation capital expenses associated with the planned future I-75/Overpass Road Interchange, and the BCC and Florida Department of Transportation have determined that this improvement provides a benefit to the VOPH and SIS. To the extent the County or any development is required to comply with the consultation requirement in Section 163.3180(5)(h)1, Florida Statutes, the consultation required by this subsection shall be considered the consultation required by Section 163.3180(5)(h)1 Florida Statutes, for any development required to pay the SIS mobility fee.
  - d. Mobility fee funds shall not be utilized to purchase or buy back TIF credits or mobility fee credits.
3. Refunds by the County

The mobility fees collected pursuant to this section shall be returned to the then present owner if the mobility fees have not been

encumbered within eight (8) years of the date the mobility fees were paid.

The present owner of the property for which the mobility fee was paid must petition the BCC for the refund within one (1) year following the end of the eighth year from the date on which the mobility fee was paid.

For the purposes of this section, mobility fees collected shall be deemed to be encumbered or spent on the basis of the first mobility fee in shall be the first mobility fee out. In other words, the first money placed in a mobility fee fund shall be the first money taken out of that account when withdrawals have been made.

Refunds shall be in accordance with the procedures in this Code, Section 1302.2.H.

H. Effect on Other Regulations and Development Approvals

1. Effect of Mobility Fees on Other Applicable County Land Development Regulations and Ordinances:

a. If any County land development regulation, ordinance, or resolution refers to TIF or the Transportation Impact Fee Ordinance, such land development regulation, ordinance, or resolution shall be deemed to refer to mobility fees or the Mobility Fee Ordinance. If any County land development regulation, ordinance, or resolution refers to an inflation factor or index based on the Transportation Impact Fee Ordinance, the inflation factor or index in such land development regulation, ordinance or resolution shall be deemed to refer to the inflation factor or index in the Mobility Fee Ordinance and Mobility Fee Study, which is presently zero (0) percent. Any reference in a County land development regulation, ordinance, or resolution to an "Option 1 Full Fee," maximum TIF, or similar term, shall be deemed to refer to the mobility fees in the "Full Fee" column of the Mobility Fee Schedule. Any reference in a County land development regulation, ordinance, or resolution to a TIF credit shall be deemed to refer to credit against the roadway mobility fee and bicycle/pedestrian mobility fee. The changed references set forth above shall not apply to the Transportation Impact Fee Ordinance or any resolution adopting a Transportation Impact Fee Schedule.

b. The payment of mobility fees does not ensure compliance with other County land development regulations, including regulations relating to transportation corridor management, collector and arterial spacing, access management, substandard roads, secondary access, transportation analysis, and, where applicable, DRI review. However, if such

regulations require transportation mitigation for the same impacts addressed through the payment of mobility fees, such regulations provide for credits against mobility fees consistent with State and Federal law and this section.

- c. The listing of a land use in the Mobility Fee Schedule is solely for purposes of establishing the applicable mobility fee for such use, and such listing does not mean that the land use is permitted or available under applicable zoning and Comprehensive Plan requirements. In addition, the listing of the land use in the Mobility Fee Schedule shall not be considered evidence that the land use is appropriate in any market area, land use classification, or zoning district.
2. Effect of Mobility Fees on Development Approvals:
    - a. The adoption of mobility fees shall not affect Opt-Out Developments, and such developments shall continue to be subject to the Transportation Impact Fee Ordinance, Transportation Impact Fee Schedule, and the applicable development approvals for the Opt-Out Development.
    - b. If any development approval refers to TIFs or the Transportation Impact Fee Ordinance, such development approval shall be deemed to refer to mobility fees or the Mobility Fee Ordinance. If any development approval refers to an inflation factor or index based on the Transportation Impact Fee Ordinance, the inflation factor or index in such development approval shall be deemed to refer to the inflation factor or index in the Mobility Fee Ordinance and Mobility Fee Study, which is presently zero (0) percent. Any reference in a development approval to an "Option 1 Full Fee," maximum TIF, or similar term, shall be deemed to refer to the mobility fees in the "Full Fee" column of the Mobility Fee Schedule. Any reference in a development approval to a TIF credit shall be deemed to refer to credit against the roadway mobility fees and bicycle/pedestrian mobility fees.

These changes and changed references shall be by operation of law, and modifications or amendments to the development approvals shall not be required. The foregoing changes and changed references shall not apply to Opt-Out Developments or Building Permits issued prior to March 1, 2011.

#### I. Mobility Fee Opt-Out Procedure

1. As a general rule, the payment of a mobility fee and administration fee upon the issuance of a CO shall be considered an election for the building receiving the CO to pay mobility fees in lieu of TIFs. Such election shall not affect the remaining buildings or persons in a

planned development, and such buildings and persons shall remain entitled to utilize the Opt-Out Procedures set forth in this subsection.

2. Until September 1, 2016, any building or person may elect to opt out of mobility fees and remain subject to the payment of TIFs as shown in Exhibit 1302.2-B, and remain subject to transportation concurrency as required by this Code, Section 1301; however, such election shall not apply to any building that has already received a CO when the election is made. Such election shall be made in writing to the County Administrator or designee and shall include the following information for the land area subject to the opt-out election: (a) the legal description, (b) the parcel identification numbers (or plat name and plat book and page if the land area is platted), and (c) an *AutoCAD* file or ESRI shapefile in West Florida State Plane coordinates.

If a building or development is part of a planned development with credits, the opt-out election may only be made by the master developer of the planned development. If a master developer of a planned development with credits elects to opt out of mobility fees and remain subject to the payment of TIFs and transportation concurrency, such election shall be binding on all buildings, development, and persons within the planned development, unless and until the master developer revokes such election. An election to opt out of mobility fees shall be evidenced through a recorded document acceptable to the CAO that places subsequent landowners on notice of the election. In addition, if the election is made by a master developer of a planned development with credits, the master developer shall provide individual written notification of the election to all owners of vacant land in the planned development.

Opt-Out Developments can revoke their opt-out election at any time, provided that they (a) notify the County Administrator or designee in writing; (b) specify the land area subject to the revocation, including the same land area identification information required for an election; and (c) record a new document acceptable to the CAO that revokes the prior election. For planned developments with credits, only the master developer can revoke the opt-out election, and the master developer shall also provide individual notification of the revocation to all owners of vacant land in the planned development. Unless an opt-out election is revoked at an earlier date, all opt-out elections, and recorded documents evidencing such elections, shall expire on December 31, 2025; after such date all developments and planned developments in the County shall be subject to the payment of mobility fees.

3. Opt-Out Developments utilizing the procedures in this subsection shall be subject to the "Fiscal Year 2011" TIFs in the Transportation Impact Fee Schedule, and such TIFs shall not be subject to increases, decreases, reevaluations, or updates as long as the development remains an Opt-Out Development.

Opt-Out Developments shall not be subject to administration fees and shall be governed by the Transportation Impact Fee Ordinance in lieu of this section. TIFs received by the County from Opt-Out Developments shall be collected, appropriated, and expended in accordance with the Transportation Impact Fee Ordinance and any applicable development approval for the Opt-Out Development.

4. The BCC has chosen to adopt and update mobility fees as a replacement to transportation impact fees and shall ensure that mobility fees are reviewed and updated to ensure compliance with statutory and common law requirements for impact fees. The BCC has no intention of reevaluating or updating TIFs or the Transportation Impact Fee Ordinance and has made the Opt-Out Procedure in this subsection available solely to provide an option to persons who believe they are adversely affected by the adoption of mobility fees. An election to opt out of mobility fees also provides tangible benefits to the Opt-Out Development, such as an assurance that the Opt-Out Development will not be subject to TIF or mobility fee increases. Accordingly, an election to be an Opt-Out Development shall be deemed a waiver of any right to challenge TIFs, or the Transportation Impact Fee Ordinance, based on statutory or common law requirements for impact fees. However, such election shall not affect the Opt-Out Development's rights to pursue any administrative remedies available in the Transportation Impact Fee Ordinance or this Code, including independent fee studies.