

ORDINANCE NO. 8806-16

AN ORDINANCE OF THE CITY OF CLEARWATER, FLORIDA MAKING AN AMENDMENT TO THE CODE OF ORDINANCES BY AMENDING APPENDIX A - SCHEDULE OF FEES, RATES AND CHARGES, XXII, TRANSPORTATION IMPACT FEE, RENAMING THIS SECTION MULTI-MODAL IMPACT FEE AND UPDATING THE PINELLAS COUNTY ORDINANCE REFERENCE; AMENDING THE COMMUNITY DEVELOPMENT CODE, DIVISION 6, LEVEL THREE APPROVALS, REPLACING VARIOUS "CITY COMMISSION" REFERENCES WITH "CITY COUNCIL" THROUGHOUT THIS DIVISION; AMENDING SECTION 4-602, ZONING ATLAS AMENDMENTS, UPDATING THE REVIEW CRITERIA; AMENDING DIVISION 9, CONCURRENCY MANAGEMENT, ESTABLISHING A MOBILITY MANAGEMENT SYSTEM AND MULTI-MODAL IMPACT FEE; AMENDING ARTICLE 8, DEFINITIONS AND RULES OF CONSTRUCTION, SECTION 8-102, ADDING AND DELETING TERMS CONSISTENT WITH THE MOBILITY MANAGEMENT SYSTEM AND MULTI-MODAL IMPACT FEES; CERTIFYING CONSISTENCY WITH THE CITY'S COMPREHENSIVE PLAN AND PROPER ADVERTISEMENT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Florida House Bill 7207, also known as the Community Planning Act, was signed into law in 2011; and

WHEREAS, the Community Planning Act removed State requirements for local government implementation of transportation concurrency management systems; and

WHEREAS, the City of Clearwater participated in a multi-jurisdictional Mobility Plan Task Force, facilitated by the Pinellas County Metropolitan Planning Organization, to develop a framework for a countywide approach to implementation of a mobility management system in place of transportation concurrency; and

WHEREAS, the Pinellas County Board of County Commissioners established the Pinellas County Mobility Plan to replace the repealed requirement of transportation concurrency; and

WHEREAS, the Pinellas County Mobility Plan provides a more flexible and efficient alternative to the traditional form of concurrency management, which tied development approvals to maintaining adopted roadway level of services standards, while facilitating multi-modal transportation solutions; and

WHEREAS, the Pinellas County Mobility Plan calls for the renaming the Transportation Impact Fee to Multi-Modal Impact Fee to better reflect the purpose of this Ordinance to improve the capacity of the countywide transportation system for all users; and

WHEREAS, Pinellas County is amending their development code to be effective March 2016; and

WHEREAS, Pinellas County Land Development Code Chapter 150, Article II establishes that the Multi-Modal Impact Fee and Mobility Management System is applicable countywide; and

WHEREAS, amendments are needed to the Clearwater Development Code to implement the Mobility Management System; and

WHEREAS, the Mobility Management System will replace the proportionate fair share program which was required under transportation concurrency; and

WHEREAS, the City of Clearwater desires for the Community Development Code to function effectively and equitably throughout the City; and

WHEREAS, the City of Clearwater has determined where the Community Development Code needs clarification and revision to achieve consistency with the Pinellas County Mobility Plan and Impact Fee Ordinance; now therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEARWATER, FLORIDA:

Section 1. That Appendix A, Schedule of Fees, Rate and Charges, of the Code of Ordinances, be amended to read as follows:

XXII. TRANSPORTATION MULTI-MODAL IMPACT FEE:

Pinellas County ~~Ordinance No. 86-43~~ Land Development Code Chapter 150, Article II, administered by the city, assesses a fee on new land development or a change in land use. This fee is based upon the increase in vehicular traffic generated by a new development or land use.

Section 2. That Article 4, Development Review and Other Procedures, Section 4-602, Zoning Atlas Amendments, Community Development Code be amended as follows:

- D. Community development board review/recommendation. Upon receipt of the recommendation of the community development coordinator, the community development board shall conduct a public hearing on the application in accordance with the requirements of Section 4-206 and issue a recommended order to the city ~~commission~~ council setting forth the board's findings in regard to whether the proposed amendment will satisfy the standards set forth in Section 4-602(F) and may include any proposed modifications or conditions to the proposed amendment.

- E. City ~~commission~~ council review/decision. Upon receipt of the recommended order of the community development board, the city ~~commission~~ council shall conduct a public hearing in accordance with the provisions of Section 4-20 and shall approve, approve with conditions, or deny the amendment. Upon adoption of an ordinance amending the Zoning Atlas, the Zoning Atlas shall be deemed amended as of the effective date of the ordinance. The community development coordinator shall revise and may republish from time to time the Zoning Atlas or portions thereof as amended, but a failure to revise or republish shall not affect the validity of any ordinance amending the Zoning Atlas.

- F. *Standards for review.* No amendment to the Zoning Atlas shall be approved unless the city ~~commission~~ council finds that such amendment complies with the following standards:

* * * * *

- 5. The amendment will not adversely burden public facilities, ~~including the traffic-carrying capacities of streets,~~ in an unreasonably or disproportionate manner.

* * * * *

Section 3. That Article 4, Development Review and Other Procedures, Division 9, Concurrency Management, Community Development Code be renamed as follows:

DIVISION 9. – CONCURRENCY AND MOBILITY MANAGEMENT

* * * * *

Section 4. That Article 4, Development Review and Other Procedures, Section 4-901.B, Authority and applicability, Community Development Code be amended as follows:

- B. *Exception.* No certificate of concurrency/capacity is required for the following:

* * * * *

12. Roads

Section 5. That Article 4, Development Review and Other Procedures, Section 4-903.A.6, Standards for certificate of concurrency/capacity, Community Development Code be deleted as follows:

- A. In determining whether a certificate of concurrency/capacity may be issued, the community development coordinator shall apply the level of service standards in the comprehensive plan according to the following measures for each public facility:

* * * * *

~~6. Roads: Section 4-803(C) Standards for Traffic Impact Study, and Section 4-904 Proportionate Fair Share Program.~~

Section 6. That Article 4, Development Review and Other Procedures, Section 4-903.C.4, Standards for certificate of concurrency/capacity, Community Development Code be deleted as follows:

- C. If the capacity of available public facilities is less than the capacity required to maintain the level of service standard for the impact of the development, the applicant may:

* * * * *

~~4. Make a proportionate fair share contribution, pursuant to Section 4-904.~~

Section 7. That Article 4, Development Review and Other Procedures, Section 4-904, Proportionate Fair Share Program, Community Development Code be repealed and replaced to read as follows:

~~Section 4-904. Proportionate Fair Share Program.~~

- ~~A. Purpose and intent. The purpose of this section is to establish a method whereby the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors, to be known as the proportionate fair share program, as required by and in a manner consistent with F.S. § 163.3180(16).~~
- ~~B. Findings. The city council finds and determines that transportation capacity is a commodity that has a value to both the public and private sectors and that the city proportionate fair share program:
 - ~~1. Provides a method by which the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors;~~
 - ~~2. Allows developers to proceed under certain conditions, notwithstanding the failure of transportation concurrency, by contributing their proportionate fair share of the cost of a transportation facility;~~~~

- ~~3. — Contributes to the provision of adequate public facilities for future growth and promotes a strong commitment to comprehensive facilities planning, thereby reducing the potential for moratoria or unacceptable levels of traffic congestion;~~
- ~~4. — Maximizes the use of public funds for adequate transportation facilities to serve future growth, and may, in certain circumstances, allow the city to expedite transportation improvements by supplementing funds currently allocated for transportation improvements in the Capital Improvements Element of the Clearwater Comprehensive Plan;~~
- ~~5. — Is consistent with F.S. § 163.3180(16), and supports the following policies in the City's Comprehensive Plan:~~

~~Policies 7.3.1; 7.3.2; 7.4.1; 7.4.3; 8.1.1; 8.2.1; 8.3.1; 8.6.1; 8.6.2; 8.6.3; 9.2.1; 10.1.1; 10.3.1.~~

~~C. — Applicability. The proportionate fair-share program shall apply to all developments in the City of Clearwater, that have been notified of a lack of capacity to satisfy transportation concurrency on a transportation facility in the city's concurrency management system, including transportation facilities maintained by Florida Department of Transportation (FDOT) or another jurisdiction that are relied upon for concurrency determinations, pursuant to the requirements of Section 4-904.D. The Proportionate Fair-Share Program does not apply to developments of regional impact (DRIs) using proportionate fair-share under F.S. § 163.3180(12), or to developments exempted from concurrency as provided in F.S. § 163.3180, regarding exceptions and de minimis impacts.~~

~~D. — General requirements.~~

- ~~1. — An applicant may choose to satisfy the transportation concurrency requirements of the city by making a proportionate fair-share contribution, pursuant to the following requirements:

 - ~~a. — The proposed development is consistent with the comprehensive plan and applicable land-development regulations.~~
 - ~~b. — The five-year schedule of capital improvements in the city capital improvement element includes a transportation improvement(s) that, upon completion, will satisfy the requirements of the city transportation concurrency management system. The provisions of Section 4-904.D.2 below may apply if a project or projects needed to satisfy concurrency are not presently contained within the city's capital improvement element or an adopted long-term schedule of capital improvements.~~~~
- ~~2. — The city may choose to allow an applicant to satisfy transportation concurrency through the proportionate fair-share program by contributing to an improvement that, upon completion, will satisfy the requirements of the city transportation concurrency management system, but is not contained in the five-year schedule of capital improvements in the capital improvement element or a long-term schedule of capital improvements for~~

~~an adopted long-term concurrency management system, where the following apply:~~

~~a. The city adopts, by resolution or ordinance, a commitment to add the improvement to the five-year schedule of capital improvements in the capital improvement element or long-term schedule of capital improvements for an adopted long-term concurrency management system no later than the next regularly scheduled update. To qualify for consideration under this section, the proposed improvement must be reviewed and determined to be financially feasible pursuant to F.S. § 163.3180(16)(b)1., consistent with the comprehensive plan, and in compliance with the provisions of this section. Financial feasibility for this section means that additional contributions, payments or funding sources are reasonably anticipated during a period not to exceed ten years to fully mitigate impacts on the transportation facilities.~~

~~b. If the funds allocated for the five-year schedule of capital improvements in the city capital improvement element are insufficient to fully fund construction of a transportation improvement required by the concurrency management system, the city may still enter into a binding proportionate fair-share agreement with the applicant authorizing construction of that amount of development on which the proportionate fair-share is calculated if the proportionate fair-share amount in such agreement is sufficient to pay for one or more improvements which will, in the opinion of the governmental entity or entities maintaining the transportation facilities, significantly benefit the impacted transportation system. The improvement or improvements funded by the proportionate fair-share component must be adopted into the five-year capital improvements schedule of the comprehensive plan or the long-term schedule of capital improvements for an adopted long-term concurrency management system at the next annual capital improvement element update.~~

~~3. Any improvement project proposed to meet the developer's fair-share obligation must meet design standards of the city for locally maintained roadways and those of the Florida Department of Transportation for the state highway system.~~

~~E. Intergovernmental coordination. Pursuant to policies in the intergovernmental coordination element of the city comprehensive plan and applicable policies in the regional plan, the city shall coordinate with affected jurisdictions, including the Florida Department of Transportation, regarding mitigation to impacted facilities not under the jurisdiction of the city receiving the application for proportionate fair-share mitigation. An interlocal agreement may be established with other affected jurisdictions for this purpose.~~

~~F. Application process.~~

~~1. Upon notification of a lack of capacity to satisfy transportation concurrency where the applicant is eligible to participate in the proportionate fair share program, the applicant shall also be notified in writing of the opportunity to~~

~~satisfy transportation concurrency through the proportionate fair share program pursuant to the requirements of Section 4-904.D above.~~

- ~~2. Prior to submitting an application for a proportionate fair share agreement, a pre-application meeting shall be held to discuss eligibility, application submittal requirements, potential mitigation options, and related issues. If the impacted facility has cross jurisdictional impacts per Section 4-904.K then the affected jurisdictions will be notified and invited to participate in the pre-application meeting.~~
- ~~3. Eligible applicants shall submit an application to the city that includes an application fee of \$235.00 and the following:
 - ~~a. Name, address and phone number of owner(s), developer and agent;~~
 - ~~b. Property location, including parcel identification numbers;~~
 - ~~c. Legal description and survey of property;~~
 - ~~d. Project description, including type, intensity and amount of development;~~
 - ~~e. Phasing schedule, if applicable;~~
 - ~~f. Description of requested proportionate fair share mitigation method(s); and~~
 - ~~g. Copy of concurrency application.~~~~
- ~~4. The community development coordinator shall review the application and certify that the application is complete and eligible within seven working days of submission of the application. If an application is determined to be incomplete or inconsistent with the general requirements of the proportionate fair share program as indicated in Section 4-904.D, then the applicant will be notified in writing of the reasons for such deficiencies within ten working days of submittal of the application. If such deficiencies are not remedied by the applicant within 30 working days of receipt of the written notification, then the application will be deemed withdrawn and no further consideration shall be taken by the community development coordinator.~~
- ~~5. Pursuant to F.S. § 163.3180(16)(e), proposed proportionate fair share mitigation for development impacts to facilities on the Strategic Intermodal System (SIS) requires the concurrence of the Florida Department of Transportation. The applicant shall submit evidence of an agreement between the applicant and the Florida Department of Transportation for inclusion in the proportionate fair share agreement.~~
- ~~6. When an application is deemed complete and eligible, the applicant shall be advised in writing and a proposed proportionate fair share obligation and binding agreement will be prepared by the city or the applicant with direction from the city and delivered to the appropriate parties for review, including a copy to all affected jurisdictions for any proposed proportionate fair share mitigation that has multi-jurisdictional impacts, no later than 60 working days from the date at which the applicant received the notification of a complete and eligible application and no fewer than 14 working days prior to the city council meeting when the agreement will be considered. The city and applicant may mutually agree to extend the 60 working day~~

~~time frame for development of the agreement for the purpose of evaluating information and/or collecting additional information to complete the agreement~~

- ~~7. The city shall notify the applicant regarding the date of the city council meeting when the agreement will be considered for final approval. No proportionate fair-share agreement will be effective until approved by the city council. In instances where the proportionate fair-share obligation is determined to be \$100,000.00 or less, the community development coordinator shall have the authority to approve, on the part of the city, any agreement to satisfy that obligation.~~

~~G. Determining proportionate fair share obligation:~~

- ~~1. The proportionate fair share obligation shall be based on the impact a development has on a transportation facility as determined by a traffic impact analysis that assesses the distribution and volume of traffic generated by the proposed development.~~
- ~~2. A facility shall be considered impacted when the net trips generated by the proposed development meets or exceeds five percent of the facility's peak hour capacity.~~
- ~~3. Should the impacted facility be operating at a level of service that meets the locally adopted level of service standard, it would not be eligible for the application of proportionate fair share provisions.~~
- ~~4. Should the impacted facility be operating at a substandard level of service based on existing conditions or as a result of the impacts of a proposed development, the facility would be identified as eligible for proportionate fair share provisions and the applicant would be notified as such.~~
- ~~5. Proportionate fair share mitigation for concurrency impacts may include, without limitation, separately or collectively, private funds, contributions of land, and construction and contribution of facilities.~~
- ~~6. A development shall not be required to pay more than its proportionate fair share. The fair market value of the proportionate fair share mitigation for the impacted facilities shall not differ regardless of the method of mitigation.~~
- ~~7. The methodology used to calculate an applicant's proportionate fair share obligation shall be as provided for in F.S. § 163.3180(12), as follows:
 - ~~a. The cumulative number of trips from the proposed development expected to reach roadways during peak hours from the complete build out of a stage or phase being approved, divided by the change in the peak hour maximum service volume (MSV) of roadways resulting from construction of an improvement necessary to maintain the adopted level of service, multiplied by the construction cost, at the time of developer payment, of the improvement necessary to maintain the adopted Level of Service. or~~~~

~~b. Proportionate Fair Share = σ [(Development Trips;_{subsub;}) / (SV Increase;_{sub})~~

~~8. For the purposes of determining proportionate fair share obligations, the city shall determine improvement costs based upon the actual cost of the improvement as obtained from the Capital Improvement Element, the Metropolitan Planning Organization Transportation Improvement Plan or the Florida Department of Transportation Work Program. Where such information is not available or outdated, improvement cost shall be determined using one of the following methods:~~

~~a. An analysis by the city of costs by unit price that incorporates data from recent projects and is updated annually. In order to accommodate increases in construction material costs, project costs shall be adjusted by the method specified in Section 4-904(M) or~~

~~b. The most recent issue of the Florida Department of Transportation's Transportation Costs, as adjusted based upon the unit price (urban or rural); locally available data from recent projects on acquisition, drainage and utility costs; and significant changes in the cost of materials due to unforeseeable events. Cost estimates for state road improvements not included in the adopted Florida Department of Transportation Work Program shall be determined using this method in coordination with the Florida Department of Transportation District.~~

~~9. If the city has accepted an improvement project proposed by the applicant, then the value of the improvement shall be determined using one of the methods provided in this section.~~

~~10. If the city has accepted right-of-way dedication for the proportionate fair-share payment, credit for the dedication of the non-site related right-of-way shall be valued on the date of the dedication at 118 percent of the most recent assessed value by the Pinellas County Property Appraiser or, at the option of the applicant, by fair market value established by an independent appraisal approved by the city and at no expense to the city. The applicant shall supply a drawing and legal description of the land and a certificate of title or title search of the land to the city at no expense to the city. If the estimated value of the right-of-way dedication proposed by the applicant is less than the city estimated total proportionate fair share obligation for that development, then the applicant must also pay the difference. Prior to purchase or acquisition of any real estate or acceptance of donations of real estate intended to be used for the proportionate fair share, public or private partners should contact the Florida Department of Transportation for essential information about compliance with federal law and regulations.~~

~~11. Where the comprehensive plan supports mixed-use, infill, redevelopment, and expanding roadway capacity to serve this development is inconsistent with community goals, the city may establish one or more multimodal districts for the purpose of transportation concurrency. In the event that such districts are established:~~

- a. ~~The boundaries of each district shall be described, and for each district, standards shall be adopted for street connectivity and transit, bicycle and pedestrian levels of service, consistent with Florida Department of Transportation Model Regulations and Plan Amendments for Multimodal Transportation Districts.~~
 - b. ~~For each district, the city shall adopt a five-year or long-term schedule of capital and service improvements to achieve and maintain the adopted levels of service. Any transit improvements to be included in this schedule will be identified in consultation with the transit agency.~~
 - c. ~~When a development is proposed in a district where the multimodal level of service standards are not being met, the applicant may pay a proportionate fair share amount towards meeting the standards and then proceed with the development.~~
12. ~~At the discretion of the city, the development's overall trips may be reduced by up to five percent, with a developer commitment to the implementation of trip reduction measures, to include: an agreed-on set of capital and/or operational contributions; record-keeping and annual reporting by implementers of operational programs; and penalties for failure to implement and maintain the measures for an agreed upon time period. Appropriate capital and operational contributions towards trip reduction may include, but are not limited to, vanpool vehicles, preferential parking and other facilities for carpools and vanpools, covered and secure bicycle storage, shower and change facilities available to bicycle commuters, office work-stations available for use by teleworkers, and support for and active promotion of rideshare matching programs.~~

H. ~~Impact fee credit for proportionate fair-share mitigation.~~

1. ~~Proportionate fair share contributions shall be applied as a credit against transportation impact fees to the extent that all or a portion of the proportionate fair-share mitigation is used to address the same capital infrastructure improvements contemplated by the county's impact fee ordinance.~~
2. ~~Transportation impact fee credits for the proportionate fair-share contribution will be determined when the transportation impact fee obligation is calculated for the proposed development. Transportation impact fees owed by the applicant will be reduced per the proportionate fair-share agreement as they become due per the Pinellas County Countywide Transportation Impact Fee Ordinance. If the applicant's proportionate fair-share obligation is less than the development's anticipated transportation impact fee for the specific stage or phase of development under review, then the applicant or its successor must pay the remaining impact fee amount to the city pursuant to the requirements of the county impact fee ordinance.~~
3. ~~Major transportation impact fee-funded projects not identified within the appropriate county transportation impact fee district nor created under~~

~~Section 4-904 D.2.a. nor Section 4-904 D.2.b. which can demonstrate a significant benefit to the impacted transportation system may be eligible for impact fee credits in accordance with the provisions of the county transportation impact fee ordinance.~~

~~4. The proportionate fair-share obligation is intended to mitigate the transportation impacts of a proposed development at a specific location. As a result, any transportation impact fee credit based upon proportionate fair-share contributions for a proposed development cannot be transferred to any other location unless provided for within the county impact fee ordinance.~~

~~I. Proportionate fair-share agreement.~~

~~1. Upon execution of a proportionate fair-share agreement (agreement), and upon meeting all other requirements of Section 4-903, the applicant shall receive a certificate of concurrency. In the event that the certificate of concurrency expires, the agreement shall be considered null and void, and the applicant shall be required to reapply.~~

~~2. Payment of the proportionate fair-share contribution is due in full prior to issuance of the development order or recording of the final plat and shall be non-refundable. If the payment is submitted more than 12 months from the date of execution of the agreement, then the proportionate fair-share cost shall be recalculated at the time of payment based on the best estimate of the construction cost of the required improvement at the time of payment, pursuant to Section 4-904.G. and adjusted accordingly.~~

~~3. All developer improvements authorized under this section must be completed prior to issuance of a building permit, or as otherwise established in a binding agreement that is accompanied by a security instrument that is sufficient to ensure the completion of all required improvements. It is the intent of this section that any required improvements be completed before issuance of building permits or certificates of occupancy.~~

~~4. Dedication of necessary right-of-way for facility improvements pursuant to a proportionate fair-share agreement must be completed prior to issuance of the final development order or recording of the final plat.~~

~~5. Any requested change to a development project subsequent to a development order may be subject to additional proportionate fair-share contributions to the extent the change would generate additional traffic that would require mitigation.~~

~~6. Applicants may submit a letter to withdraw from the proportionate fair-share agreement at any time prior to the execution of the agreement. The application fee and any associated advertising costs to the city will be non-refundable.~~

~~7. The city may enter into proportionate fair-share agreements for selected corridor improvements to facilitate collaboration among multiple applicants on improvements to a shared transportation facility.~~

~~J. Appropriation of fair-share revenues.~~

~~1. Proportionate fair-share revenues shall be placed in the appropriate project account for funding of scheduled improvements in the city capital improvement element, or as otherwise established in the terms of the proportionate fair-share agreement. At the discretion of the city, proportionate fair-share revenues may be used for operational improvements prior to construction of the capacity project from which the proportionate fair-share revenues were derived. Proportionate fair-share revenues may also be used as the 50 percent local match for funding under the Florida Department of Transportation's Transportation Regional Incentive Program (FDOT TRIP).~~

~~2. In the event a scheduled facility improvement is removed from the capital improvement element, then the revenues collected for its construction may be applied toward the construction of another improvement within that same corridor or sector that would mitigate the impacts of development pursuant to the requirements of Section 4-904.D.2.b.~~

~~3. Where an impacted regional facility has been designated as a regionally significant transportation facility in an adopted regional transportation plan as provided in F.S. § 339.155, and then the city may coordinate with other impacted jurisdictions and agencies to apply proportionate fair-share contributions and public contributions to seek funding for improving the impacted regional facility under the Florida Department of Transportation's Transportation Regional Incentive Program (FDOT TRIP). Such coordination shall be ratified by the city through an interlocal agreement that establishes a procedure for earmarking of the developer contributions for this purpose.~~

~~4. Where an applicant constructs a transportation facility that exceeds the applicant's proportionate fair-share obligation calculated under Section 4-904.H, the city shall reimburse the applicant for the excess contribution using one or more of the following methods:~~

~~a. An impact fee credit account may be established for the applicant in the amount of the excess contribution, a portion or all of which may be assigned and reassigned under the terms and conditions acceptable to the city.~~

~~b. An account may be established for the applicant for the purpose of reimbursing the applicant for the excess contribution with proportionate fair-share payments from future applicants on the facility.~~

~~c. The city may compensate the applicant for the excess contribution through payment or some combination of means acceptable to the city and the applicant.~~

~~K. Cross jurisdictional impacts.~~

- ~~1. In the interest of intergovernmental coordination and to reflect the shared responsibilities for managing development and concurrency, the city may enter an agreement with one or more adjacent local governments to address cross jurisdictional impacts of development on cross jurisdictional transportation facilities. The agreement shall provide for application of the methodology in this section to address the cross jurisdictional transportation impacts of development.~~
- ~~2. A development application submitted to the city subject to a transportation concurrency determination meeting all of the following criteria shall be subject to this section:
 - ~~a. All or part of the proposed development is located within one-half mile of the area which is under the jurisdiction, for transportation concurrency, of an adjacent local government; and~~
 - ~~b. If the additional traffic from the proposed development would use five percent or more of the adopted peak hour level of service maximum service volume of a cross jurisdictional transportation facility within the concurrency jurisdiction of the adjacent local government (impacted cross jurisdictional facility); and~~
 - ~~c. The impacted cross jurisdictional facility is projected to be operating below the level of service standard, adopted by the adjacent local government, when the traffic from the proposed development is included.~~~~
- ~~3. Upon identification of an impacted cross jurisdictional facility pursuant to Section 4-904.K.2.a. c. The city shall notify the applicant and the affected adjacent local government in writing of the opportunity to derive an additional proportionate fair share contribution, based on the projected impacts of the proposed development on the impacted adjacent facility.~~
- ~~4. The adjacent local government shall have up to 90 days in which to notify the city of a proposed specific proportionate fair share obligation, and the intended use of the funds when received. The adjacent local government must provide reasonable justification that both the amount of the payment and its intended use comply with the requirements of F.S. § 163.3180(16). Should the adjacent local government decline proportionate fair share mitigation under this section, then the provisions of this section would not apply and the applicant would be subject only to the proportionate fair share requirements of the city.~~
- ~~5. If the subject application is subsequently approved by the city, the approval shall include a condition that the applicant provides, prior to the issuance of any building permit covered by that application, evidence that the proportionate fair share obligation to the adjacent local government has been satisfied. The city may place as a condition of approval that the~~

adjacent local government declare in a resolution, ordinance, or equivalent document, its intent for the use of the concurrency funds to be paid by the applicant.

~~L. Proportionate Share Program for Transportation Concurrency Exception Areas (TCEA's), Transportation Concurrency Management Areas (TCMA's) and Multimodal Transportation Districts (MMTD's). Within the local TCMA's, MMTD's, and/or TCEA's, the city may establish a proportionate fair-share assessment, based on the expected costs and transportation benefits of all the programmed improvements within that district, and based on the expected trip generation of the proposed development.~~

~~M. Method for cost escalation. This section contains a method to estimate growth in costs, through the computation of a three-year average of the actual cost growth rates. This will provide a growth rate that should be smoothed to avoid overcompensating for major fluctuations in costs that have occurred due to short-term material shortages.~~

$$\text{Cost}_n = [(1 + t) \times (\text{Cost}_0)] \times [1 + \text{Cost growth}_{3\text{yr}}]^n$$

~~Where:~~

~~Cost_n = The cost of the improvements in year n;~~

~~t = Contingency factor - Will only be applied to projects that have not been adjusted for present day costs using a comparable contingency factor.~~

~~Cost₀ = The cost of the improvement in the current year;~~

~~Cost growth_{3yr} = The growth rate of costs over the last three years;~~

~~n = The number of years until the improvement is constructed.~~

~~The three-year growth rate is determined by the following formula:~~

$$\text{Cost growth}_{3\text{yr}} = [\text{Cost growth}_{.1} + \text{Cost growth}_{.2} + \text{Cost growth}_{.3}] / 3$$

~~Where:~~

~~Cost growth_{3yr} = The growth rate of costs over the last three years;~~

~~Cost growth_{.1} = The growth rate of costs in the previous year;~~

~~Cost growth_{.2} = The growth rate of costs two years prior;~~

~~Cost growth_{.3} = The growth rate of costs three years prior.~~

~~(Ord. No. 7718-06, § 2, 11-15-06)~~

Section 4-904. - Mobility Management System.

A. Purpose and intent. The purpose of this section is to provide a more flexible and efficient alternative to the traditional form of transportation concurrency management, which ties development approvals to maintaining adopted roadway level of service standards, while facilitating multi-modal transportation solutions.

B. Applicability. The mobility management system shall apply to all developments in the City of Clearwater, pursuant to the requirements of 4-904.C.

C. General requirements. All development projects within the City of Clearwater that generate new peak hour trips are subject to the provisions of this section to address their development impacts. Determination of trip generation associated with an application for development shall be based on Schedule A or B in Section 150-40 of

Pinellas County Land Development Code, or the latest edition of the *Institute of Transportation Engineers Trip Generation Manual*. As an alternative to the fee schedule and Trip Generation Manual, the applicant may submit a trip generation study in accordance with Section 4-905.C.4.a. and b.

1. Deficient road corridors include parcels, all or a portion of which lie within a corridor, and are defined as:
 - a. Sole direct access. A condition where the only means of site ingress/egress is directly onto the road facility, regardless of the distance of that site from the facility;
 - b. Direct access. A condition in which one or more existing or potential site ingress/egress points makes a direct connection to the road facility and the site is within one-half mile of the road facility; and
 - c. Sole indirect access. A condition where the only point of site ingress/egress is onto a public non-arterial roadway which makes its first and shortest arterial level connection onto a road facility regardless of the distance of that site from the facility.
2. Deficient road corridors are listed within the most recent Pinellas County Metropolitan Planning Organization's annual Level of Service Report.
3. Development projects that generate less than 51 new peak hour trips are required to pay a multi-modal impact fee in accordance with Section 4-905. They are not required to submit a transportation management plan or study.
4. Tier 1 projects. Tier 1 projects are development projects that generate between 51 and 300 new peak hour trips.
 - a. Developers of Tier 1 projects located within deficient road corridors are required to submit a transportation management plan designed to address their impacts while increasing mobility and reducing the demand for single occupant vehicle travel.
 - b. The cost of transportation management strategies implemented for Tier 1 projects are creditable toward their multi-modal impact fee assessment. If the cost of the improvement exceeds the assessment, the development project would not be subject to payment of the fee.
5. Tier 2 projects. Tier 2 projects are development projects that generate more than 300 new peak hour trips.
 - a. Developers of Tier 2 projects within deficient road corridors are required to conduct a traffic study and submit an accompanying report. The report shall

include the results of the traffic study and a transportation management plan identifying improvements necessary to mitigate the impacts of the project.

b. The cost of transportation management strategies implemented for Tier 2 projects may be applied as credit toward the project's multi-modal impact fee assessment or payment of the fee could be included as part of a transportation management plan.

6. Development projects that generate more than 50 new peak hour trips on non-deficient road corridors shall be reviewed by the City to determine if the impacts of the project adversely affect the level of service of the surrounding road network. If it is determined that approval of the development project reduces the level of service of the adjacent road(s) to peak hour level of service E or F or would cause the volume-to-capacity ratio to reach or exceed 0.9, a transportation management plan is required. The applicant may submit a traffic study to verify whether their project would affect the level of service of adjacent road(s). A transportation management plan is required if the results of the traffic study confirm the finding of the City, and the transportation management plan for such developments shall comply with the requirements of Tier 1 or Tier 2 projects, as described in Sections 4-904.C.2. and 3.

7. Transportation management plans. At the time of site plan review, the City shall analyze the development impacts of a project. A transportation management plan is required for development applications subject to sections 4-904C.3, 4, and 5, utilizing transportation management strategies/improvements to address their development impacts. The extent of the strategies/improvements included in an approved transportation management plan in terms of the scale of the project(s) and roadway capacity and/or mobility benefits provided shall be based primarily on the project(s) impact on the surrounding traffic circulation system. Specific conditions of the deficient road corridor impacted by the development shall also be considered.

Transportation management plans must be developed by the applicant and accepted by the City. If the project impacts a State road, the applicant shall also submit the transportation management plan to the Florida Department of Transportation District 7 Office. Transportation management plans seeking to implement strategies that do not involve structural improvements, such as ride sharing and transit incentive programs, must include a monitoring program to ensure the strategies are carried out in accordance with the plan. Site-related improvements are not eligible for inclusion in transportation management plans. Transportation management plan strategies/improvements include, but are not limited to, those listed below:

a. *Intensity reduction.* The intensity of the proposal may be reduced through an across-the-board reduction of the permitted floor area ratio, as it would

otherwise normally apply to the proposal. Other such corrective actions that would reduce the intensity of the proposal may also apply.

- b. Density reduction. The density of the proposal may be decreased by a reduction in the number of units per acre below that which would otherwise normally apply to the proposal.
- c. Project phasing. A project may be divided into logical phases of development by area, with later phases of the development proposal's approval withheld until the needed facilities are available.
- d. Outparcel deletion. Those portions of the proposal characterized as outparcels that create separate and unique impacts may be deleted from the total proposal.
- e. Physical highway improvements. A project may construct link capacity improvements, acceleration/deceleration lanes, intersection improvements, or frontage roads.
- f. Operational improvements (signal). This includes efforts involving signal removal or signal timing improvements.
- g. Access management strategies. These include access management controls such as the preclusion of a direct connection to a level of service deficient facility, right-in/right-out driveways, alternative driveway locations, reduction of a driveway, single point access, shared access, or the implementation of median controls.
- h. Mass transit initiatives. A project may implement a plan to encourage transit (e.g., employer-issued bus passes). Other mass transit initiatives may include, but are not limited to, the construction of bus stop amenities, bus pull-off areas, and dedication of park and ride parking spaces.
- i. Demand management/commuter assistance. These include efforts to encourage ride-sharing (e.g., designated parking spaces for carpools, employer-sponsored carpool programs, participation in transportation management organization/initiative programs), and implementing flexible work hour and telecommuting programs.
- j. Bicycle/pedestrian improvements. These would involve structural improvements or construction of a bikeway or sidewalk connecting an existing bikeway/sidewalk network or providing access to a school, park, shopping center, etc. These improvements may also include pedestrian treatments in parking areas, sidewalks connecting developments with adjacent land uses, trail improvements and bicycle rack and on-street bicycle lane installations, and the planting of trees to provide shade canopy along sidewalks.

- k. Intelligent transportation system improvements. This includes improvements pertaining to computerized traffic signal systems that automatically adjust to maximize traffic flow and to permit emergency vehicles to pass through intersections quickly. It also includes freeway management systems, such as electronic message signs, and electronic fare payment on public buses that reduce passenger boarding time.
- l. Livable community site design features. These include, but are not limited to, implementation of pedestrian friendly site design features such as orienting buildings toward the street and parking lots to the side or rear of buildings.

Section 8. That Article 4, Development Review and Other Procedures, Section 4-905, Reserved, of the Community Development Code be amended to read as follows:

Section 4-905. – ~~Reserved.~~ Multi-modal impact fee.

- A. Purpose and intent. The purpose of this section is to establish the required payment of multi-modal impact fees, the computation of those fees, fee credits, disposition of funds, refunding of fees, and exemptions of fees.
- B. Fee required. The payment of a multi-modal impact fee shall be required in the manner and amount set forth in this section.
 - 1. Any person who seeks a certificate of occupancy for any land development activity or seeks to change a use by applying for issuance of a building permit which will generate additional traffic shall be required to pay a multi-modal impact fee.
 - 2. No certificate of occupancy or building permit requiring payment of a multi-modal impact fee pursuant to section 4-905.C shall be issued unless and until the multi-modal impact fee has been paid.
 - 3. Any person who has submitted a site plan or building permit application in accordance with land development codes prior to the adoption of Ord. No. 8806-16 shall be subject to the terms of the ordinance that was in effect at the time the site plan or building permit application was submitted.
- C. Computation of amount. The amount of the multi-modal impact fees imposed under this section will depend on a number of factors, including the type of land development activity, and several fixed elements, such as the average cost to construct one lane-mile of roadway (\$2,216,466) and the average capacity of one lane-mile of roadway (6,900 vehicles per day).
 - 1. The following formula shall be used by the City to determine the impact fee per unit of development:

$$\frac{\text{TGR} \times \% \text{NT} \times \text{TL} \times \text{CST} (\text{RF})}{\text{CAP} \times 2}$$

WHERE:

TGR = Trip generation rate, as per fee schedule

%NT = percent new trips

TL = Average trip length, varies by land use

CST = The cost to construct one lane-mile of roadway (\$2,216,466)

CAP = The capacity of one lane-mile of roadway (6,900 vehicles per lane, per day)

2 = Allocation of one-half the impact to the origin and one-half to the destination

RF = Reduction factor (0.268)

2. At the option of the feepayer, the amount of the multi-modal impact fee may be determined by the Impact Fee Schedule A or B in Section 150-40 of the Pinellas Land Development Code.
3. In the case of a new use, redevelopment, or modification of an existing use, the impact fee shall be based upon the net increase in the impact fee for the new use as compared to the impact fee for the highest previous use in existence on or after the adoption of the ordinance from which this section derives. The City shall be guided in this determination by the County's transportation impact fee study (February 1990), independent study trip generation data, or the Institute of Transportation Engineers Trip Generation, sixth (or successor) edition.
4. If a feepayer opts to not have the impact fee determined according to subsections 1 or 2 of this section, then the feepayer shall prepare and submit to the City for approval of an independent fee calculation study for the land development activity for which a certificate of occupancy or building permit is sought. The traffic engineering and/or economic documentation submitted, which will require a pre-application meeting with the City, shall show the basis upon which the independent fee calculation was made, including, but not limited to the following:
 - a. Traffic engineering studies:
 1. Documentation of trip generation rates appropriate for the proposed land development activity.
 2. Documentation of trip length appropriate for the proposed land development activity.
 3. Documentation of the cost per land mile for roadway construction for the proposed land development activity.
 - b. Economic documentation studies:

1. Documentation of the cost per lane per mile for roadway construction for the proposed land development activity.
2. Documentation of credits attributable to the proposed land development activity which the feepayer will make available to replace the portion of the service volume used by the traffic generated by the proposed land development activity.
5. Trip generation documentation other than traffic engineering or economic documentation studies, as described in Section 4-905.C.4.a and b may be submitted by the applicant in consideration of an independent fee calculation.

D. Payment of fees and credits. The person applying for the issuance of a certificate of occupancy or building permit shall pay the multi-modal impact fee to the City prior to the issuance of such permit. Fees for mobile homes shall be payable prior to issuance of the permits which allow the mobile home to move on to a lot. Fees shall be collected as part of the normal permitting process of the City. The City Manager or his designee shall have full collection authority as well as full discretion for approval of alternative methods for calculation of impact fees on a case-by-case basis. All funds collected under this section shall be promptly transferred for deposit into the appropriate impact fee trust account.

E. Fee credits. The following improvements to the transportation system may be eligible for credit against the multi-modal impact fee or an impact fee adjustment or reduction. Certain site related improvements or land dedicated for related right-of-way shall not be given any credit towards the impact fee.

1. Construction of on-site trail, pedestrian, or bicycle facility if part of a trail, bicycle, or pedestrian network identified in Metropolitan Planning Organization Long Range Transportation Plan or the Clearwater Comprehensive Plan is eligible for credit against impact fee assessment.
2. All transportation improvements required under a City approved development order issued for a new development or a development of regional impact approved prior to the adoption date of this ordinance shall be credited against multi-modal impact fees up to the total amount of the impact fee. Those improvements deemed as site-related or on-site, shall not be credited against the multi-modal impact fee.
3. Mixed-use developments consisting of complementary land uses that are designed with connectivity to allow for a reduction in trip lengths and/or percent new trips are eligible for an impact fee rate adjustment based on trip generation data for similar uses.
4. Commuter assistance programs with long-term contract(s) facilitating ride sharing activity are eligible for an impact fee rate reduction based on the reduction in the

number of single-occupant vehicle trips that would otherwise be associated with the project.

5. Bus stop shelters, including pads, are eligible for a credit against the impact fee assessment in an amount equal to the cost of the improvement or 1 percent of the fee, whichever is greater.
6. Construction of shared driveway(s) between adjacent properties is eligible for a credit against the impact fee assessment in the amount that is 50 percent of the construction cost for the portion of the driveway that is located off-site.
7. Construction of shared inter-connecting parking lots is eligible for a credit against the impact fee assessment in an amount that is 50 percent of the construction cost for the portion of the parking area located off-site.
8. Sidewalks constructed for credit against impact fee assessments must provide connection between the site and surrounding sidewalk network and/or major destination point such as a park, shopping center, school, community center, etc.
9. Pedestrian and bicycle facilities connecting neighboring properties may be eligible for credit against impact fees for the portion of the construction that is off-site.
10. Off-site crosswalk enhancements, including curb bulb-out at intersection, pavement marking, or raised crossings are eligible for credit against impact fee assessment.
11. The City Manager or his or her designee may accept an offer by the feepayer to implement all or part of a transportation improvement project consistent with the Clearwater Comprehensive Plan or the Metropolitan Planning Organization's Long Range Transportation Plan. The project(s) may be for any mode of transportation, including rail, transit, pedestrian, or bicycle, providing that it serves to add to the capacity of the surrounding transportation circulation system or to increase mobility and reduce the dependence on automobile travel. This offer shall not include site-related or on-site improvements. These transportation improvements must be in accordance with City, County, or State requirements, whichever are applicable. The feepayer shall provide the following to the City Manager or his designee to determine consistency with City requirements:
 - a. Submit an offer to make improvements in lieu of a fee payment; and
 - b. A letter detailing the improvements to be made, improvement plans, and a construction cost estimate in sufficient detail.

If the City Manager or his designee accepts such an offer, the cost of the improvement project, except for the improvements identified in Sections 4-905.E.5, 6, and 7, shall be credited against the multi-modal impact fee assessed on the proposed development. Upon satisfactory completion and construction

approval of the transportation improvement made in lieu of all or a portion of the impact fee due, the improvement shall be accepted by the City for future maintenance. If the certificate of occupancy is requested prior to the completion of the approved project, then a performance bond shall be provided to the City manager or his designee to cover the balance of all work required following issuance of the certificate of occupancy.

12. Sections 4-905.E.1 through 11 do not apply to development projects that are subject to the requirements of Sections 4-904.C.4 and 5.

F. Disposition of funds. Funds collected from multi-modal impact fees shall be used exclusively for the purpose of projects that improve the capacity of the surrounding traffic circulation system. These projects may involve improvements to transportation modes such as transit, pedestrian, and bicycle travel as well as roadway expansion. Such improvements shall be of the type as are made necessary by the new development. Specific projects to receive funds from impact fees collected shall be determined by City Council. Priorities for impact fee funded transportation improvements shall be established by City Council in compliance with adopted plans and the transportation improvement program of the Metropolitan Planning Organization.

1. No funds collected under this article shall be used for periodic maintenance, as defined in F.S. Chapter 334, as amended.

2. Fees collected within a community development or tax increment financing district shall be expended within such district. If the project(s) benefit the district from where the fees were collected, the fees can be expended in a neighboring district. Parking garages for general public purposes shall be considered eligible transportation improvements within such areas or districts.

3. Multi-modal impact fees collected by the City shall be held by the City until the end of the fiscal year in which collected. At the beginning of each new fiscal year, one-half of all fees collected, and the accrued interest thereon, less the four percent retained from the total fee collected for administrative costs, shall be forwarded to the Board of County Commissioners for placement in the appropriate trust account. The remaining one-half shall be deposited in the City's multi-modal impact fee trust account. All fees must be disbursed, encumbered, or refunded by the City in a manner consistent with this section.

4. If the City wishes to expend the portion of the fees which are due to the County, the City may do so with the approval of the county administrator and the City Manager or his or her designee.

5. Multi-modal impact fees collected on the state road network within the City may be made available for construction of improvements on the state road network within the City.

6. Multi-modal impact fee funds shall be administered as an independent component of the Capital Improvement Element of the Clearwater Comprehensive Plan, as required by F.S. Chapter 163. Each fiscal year, the City Manager or his or her designee shall present to City Council the district improvement programs for transportation expenditures. These programs shall assign transportation improvement costs and related expenses to the trust account for specific transportation improvement projects. Monies, including any accrued interest not assigned in any fiscal year, shall be retained in the same impact fee trust account until the next fiscal year, except as provided by the refund provisions of this section. The City shall retain four percent of the fees collected for administrative costs.

G. Refund of fee paid. Any funds not expended or encumbered by the end of the calendar quarter immediately following ten years from the date that the multi-modal impact fee was paid, upon application of the feepayer, within 180 days of that date, be returned to the feepayer with interest at a yearly rate to be determined by the Consumer Price Index effective January 1, which is to be applied to the preceding year for each year the deposit is held.

H. Exemptions. The following shall be exempted from payment of the multi-modal impact fee:

1. Alteration or expansion of an existing building where no additional units or floor area are created, use is not changed, and where no additional vehicular trips will be produced over and above that produced by the existing use;
2. The construction of accessory buildings or structures which will not produce additional vehicular trips over and above that produced by the principal building or use of the land;
3. The replacement of a building or structure with a new building or structure of the same use provided that no additional trips will be produced over and above those produced by the original building or structure; and
4. The construction of publicly-owned facilities used primarily for traditional government uses.

Section 9. That Article 8, Definitions and Rules of Construction, Section 8-102, of the Community Development Code, be amended to read as follows:

* * * * *

Credits means the impact fee deductions allowed a feepayer for eligible off-site transportation improvements funded by the feepayer.

* * * * *

Deficient facility means a road operating at peak hour level of service E or F, and/or a volume-to-capacity (v/c) ratio of 0.9 or higher with no mitigating improvements scheduled within three years.

* * * * *

Feepayer means a person commencing a land development activity which generates traffic and which requires the issuance of a certificate of occupancy or land use permit

* * * * *

Mobility management system means the process utilized by the City to implement the City's mobility plan. This includes the process of managing the transportation impacts of development projects and assessment, collection, and expenditure of multi-modal impact fees.

Mobility plan means the approach to managing the transportation impacts of development projects and increasing the mobility for pedestrians, bicyclists, transit users, and motor vehicles utilizing the multi-modal impact fee and local site plan review processes.

* * * * *

New peak hour trip means a vehicle trip added to the major road network from and to a developed parcel of land during the weekday peak hour. This excludes passer-by or diverted trips, whereby the site is accessed as a secondary trip.

* * * * *

Pre-existing use means the land use that had occupied a parcel of land prior to the submittal of a permit/site plan application.

* * * * *

~~Transportation concurrency management area means a compact geographic area with existing or proposed multiple viable alternative travel paths or modes for common trips. An area-wide level of service standard may be established for specified facilities, and must be maintained, as a basis for the issuance of development orders and permits within one or more designated concurrency management areas.~~

Transportation management plan means a plan, submitted by a development applicant, which seeks to utilize transportation management strategies to address development impacts, improve the efficiency and safety of the transportation system, and increase the mobility for all users.

Transportation management plan strategies means any strategies intended to increase mobility while addressing the transportation impacts of development projects. Strategies include, but are not limited to, density/intensity reductions, project phasing, access controls, capital improvements and/or initiatives encouraging mass transit, bicycle, or

pedestrian travel, ride-sharing, or roadway improvements. They do not include standard requirements necessary for site plan approval or operational improvements.

* * * * *

Volume-to-capacity (v/c) ratio means the rate of traffic flow of an intersection approach or group of lanes during a specific time interval divided by the capacity of the approach or group of lanes.

* * * * *

Section 10. Amendments to the Community Development Code of the City of Clearwater (as originally adopted by Ordinance No. 6348-99 and subsequently amended) are hereby adopted to read as set forth in this Ordinance.

Section 11. The City of Clearwater does hereby certify that the amendments contained herein, as well as the provisions of this Ordinance, are consistent with and in conformance with the City's Comprehensive Plan.

Section 12. Should any part or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part declared to be invalid.

Section 13. Notice of the proposed enactment of this Ordinance has been properly advertised in a newspaper of general circulation in accordance with applicable law.

Section 14. This ordinance shall take effect immediately upon adoption.

PASSED ON FIRST READING

PASSED ON SECOND AND FINAL
READING AND ADOPTED

George N. Cretekos
Mayor

Approved as to form:

Attest:

Camilo Soto
Assistant City Attorney

Rosemarie Call
City Clerk