ORDINANCE NO. 16- _____

AN ORDINANCE OF THE TOWN OF MIAMI LAKES, FLORIDA, AMENDING THE TOWN OF MIAMI LAKES LAND DEVELOPMENT CODE BY AMENDING ARTICLE III, SECTIONS 13-302 AND 13-304, AMENDING ARTICLE X, CREATING NEW DIVISION 1, GENERALLY, NEW DIVISION 2, MOBILITY FEE AND NEW DIVISION 3, SCHOOL CONCURRENCY, AMENDING SECTIONS 13-2001 AND 13-2002, ADDING SECTIONS 13-2003 THROUGH 13-2013 AND RENUMBERING REMAINING SECTIONS AS NECESSARY; AMENDING ARTICLE XI, SECTION 13-2102; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Objective 1.2 of the Town of Miami Lakes ("Town") Comprehensive Plan states that the Town shall maintain an effective and efficient Land Development Code (LDC); and

WHEREAS, subsequent to its adoption, the Town LDC has been amended by various ordinances (the "LDC Ordinances") to better address and serve the needs of the Town; and

WHEREAS, the Town has commissioned an Alternative to Concurrency Study to determine methods to allow for the mitigation of transportation impacts of development that will more equitably fund multimodal mobility improvements rather than only automobile related improvements, as well as encourage better quality development and be more business friendly by providing for a simpler and less time-intensive approval process;

WHEREAS, the Town Council desires to establish a Mobility Fee in lieu of traditional transportation concurrency per the recommendations of the Alternative to Concurrency Study; and

WHEREAS, the Town's Planning and Zoning Board, as the Local Planning Agency, considered the proposed amendments at a duly advertised Public Hearing on December 8, 2015, and voted to recommend approval to the Town Council; and

WHEREAS, after conducting a properly noticed public hearing, hearing public comments, and considering the recommendations of the Local Planning Agency, Town staff, and

the public, the Town Council wishes to adopt the amendments to the Town LDC attached hereto as Exhibits A, B and C; and

WHEREAS, the proposed amendments are in conformance with all applicable requirements of the Town's Code of Ordinances, including the LDC; and

WHEREAS, the proposed amendments will not be in conflict with the public interest, and are consistent and in harmony with the purpose and intent of the Town's Comprehensive Plan; and

WHEREAS, the Town Council hereby finds and declares that adoption of this Ordinance is necessary, appropriate and advances the public interest.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The foregoing recitals are true and correct and are incorporated herein by this reference.

Section 2. Adoption of Amendments to Town Code. The Town Council hereby adopts the amendments to Article III, Article X and Article XI of the Town LDC, which are attached hereto as Exhibits A, B and C, respectively, and incorporated herein.[1]

Section 3. Repeal of Conflicting Provisions. All provisions of the Code of the Town of Miami Lakes that are in conflict with this Ordinance are hereby repealed.

Section 4. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Inclusion in the Town Code. It is the intention of the Town Council, and it is hereby ordained, that the provisions of Exhibits A, B and C of this Ordinance shall become and be made part of the Town Code and that if necessary the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Article", "Division" or other appropriate word.

[1] Additions to the text are shown in underline and deletions from the text are shown in ~~strikethrough~~. Changes to the text of the ordinance since first reading are shown in double underline and ~~double strikethrough~~.

Section 6. Effective date. This Ordinance shall become effective immediately upon its adoption on second reading.

FIRST READING

The foregoing ordinance was offered by Councilmember _____ who moved its adoption on first reading. The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

Mayor Michael A. Pizzi, Jr. _____
Vice Mayor Tim Daubert _____
Councilmember Manny Cid _____
Councilmember Tony Lama _____
Councilmember Ceasar Mestre _____
Councilmember Frank Mingo _____
Councilmember Nelson Rodriguez _____

Passed and adopted on first reading this 1st day of December, 2015.

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SECOND READING

The foregoing ordinance was offered by Councilmember _____ who moved its adoption on second reading. The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

Mayor Michael A. Pizzi, Jr. _____
Vice Mayor Tim Daubert _____
Councilmember Manny Cid _____
Councilmember Tony Lama _____
Councilmember Ceasar Mestre _____
Councilmember Frank Mingo _____
Councilmember Nelson Rodriguez _____

Passed and adopted on second reading this 5th day of April, 2016.

_____
Michael A. Pizzi, Jr.
MAYOR

Attest:

_____
Gina Inguanzo
TOWN CLERK

Approved as to form and legal sufficiency:

_____
Raul Gastesi, Jr.
Gastesi & Associates, P.A.
TOWN ATTORNEY

EXHIBIT A

Chapter 13 LAND DEVELOPMENT CODE

ARTICLE III. DEVELOPMENT APPROVAL PROCEDURES

Sec. 13-302. – Development approvals by the Administrative Official.

* * *

(c) Administrative site plan review. Single-family or two-family lakefront properties with any improvements or structures on the waterside of the top of the slope, site~~s~~ plans exempted from public hearing pursuant to Subsection 13-304(f)2~~(3)~~, and any other applications as designated in this chapter, require administrative site plan approval.

(1) An application for an administrative site plan shall be submitted to the Administrative Official pursuant to the requirements of Section 13-301 and accompanied by a fee and/or deposit as provided for in Section 13-2101 and Section 13-2102.

(2) The Administrative Official shall review the site plan pursuant to the requirements and criteria of Section 13-304 as applicable.

(3) Any proposed site plan which requires a conditional use (other than a minor conditional use) or variance approval shall require a public hearing for the conditional use and/or variance approval. The remainder of the site plan may be processed administratively subsequent to a determination on the conditional use and/or variance requests by the Town Council or designated Town Board (except where site plan approval by the Town Council is required pursuant to Subsection 13-304(f)(2), in which case the conditional use and/or variance requests shall be heard concurrently with the site plan application). ~~Any proposed site plan which has not received a vested rights determination or does not meet concurrency shall require site plan approval through public hearing.~~

(4) Notice shall be provided, at the expense of the applicant, as provided herein and pursuant to Section 13-309.

Sec. 13-304. – Site plan approval.

* * *

(e) Application. Applications shall be submitted and processed pursuant to the general procedures in Section 13-301. In addition, applications for site plan review shall be accompanied by the following information and processed by the Town only after the applicant has complied with the following procedural requirements:

* * *

(4) All site plans submitted for review and approval shall include the following information for all existing and proposed improvements:

* * *

s. Concurrency facilities and other utilities or services. Site plans shall satisfy concurrency management requirements of this chapter. The application shall identify demands on concurrency facilities generated by the proposed development and identify how the demands shall be accommodated through improvements. The site plan shall also list the utility providers currently serving the site, together with a description of the existing infrastructure serving the site. Include on the site plan the location, design and character of all concurrency facilities and other utilities, such as underground or overhead electric lines, gas transmission lines, or other similar facilities or services. Concurrency facilities shall include the following:

* * *

6. ~~Roadway.~~ Transportation. Transportation impacts shall be addressed according to the provisions of Article X, Division 2 of this chapter. However, in addition to those requirements, trip generation statements and/or a traffic study may be required where, in the discretion of the Administrative Official, such studies are needed to determine appropriate locations and types of ingress and egress points, the need for turn lanes and/or acceleration or deceleration lanes necessary to specifically serve the proposed development, or the addition of or changes to traffic signalization specifically resulting from the proposed development. Any trip generation statement or ~~T~~traffic studies so required shall be prepared by a licensed Florida traffic engineer. ~~Provide a projection of the expected vehicle trip generation at the completion of each development phase. Describe in terms of external trip generation and average daily as well as peak hour traffic. Evaluate the capacity of the existing roadway network serving the development. Provide recommendations for any required improvements to the existing network required by the proposed development including additional right-of-way, roadway improvements, additional paved lanes, traffic signalization, access and egress controls, and other similar improvements.~~

* * *

(f) Site plan specific review procedures.

(1) Except as may otherwise be required by law or administrative procedures, all required County, regional, State or federal agency approvals shall be obtained prior to the submission of an application for site plan review. In cases where intergovernmental coordination efforts are incomplete, the applicant shall provide evidence of good faith efforts towards resolving intergovernmental coordination issues.

(2) ~~Any site plan application that requires a conditional use, variance, or that has a potential areawide impact shall require a public hearing before the Town Council. A site plan application shall be considered to have a potential areawide impact if:~~

~~a. The application encompasses two or more acres of land;~~

~~b. Proposes 50 or more dwelling units; or~~

~~c. Proposes 20,000 or more square feet of nonresidential building area.~~

Site plan approval by the Town Council shall be required where any one or more of the following criteria are met:

a. The proposed site plan is for property in the PAD or TND zoning districts;

b. The proposed site plan proposes residential development on a site of five acres or more, except where the zoning district regulations specifically provide for another review procedure;

c. The proposed site plan proposes nonresidential development, or mixed residential and nonresidential development, of 50,000 square feet or more of building floor area, except where the zoning district regulations specifically provide for another review procedure;

d. The proposed site plan proposes nonresidential development, or mixed residential and nonresidential development, which requires approval of one or more variances or conditional use approvals (other than minor conditional uses) in order to approve the site plan, and in which a new structure, or additions to existing structures, are proposed totaling 5,000 square feet or more of building floor area. In such cases, the site plan and proposed variance(s) or conditional use approval(s) shall be heard concurrently by the Town Council;

e. Where the zoning district regulations specifically provide for site plan approval by the Town Council; or

f. Where site plan review by the Town Council is specifically required or provided for by a condition of a previous development order, or by a declaration of restrictions, development agreement or similar previous approval.

Where none of the foregoing criteria are met, site plan approval shall be by the Administrative Official, subject to appeal according to the provisions of Subsection 13-302(i).

(3) ~~Notwithstanding the provisions of Subsection (f)(2) of this section, if the applicant has previously received a vested rights determination or meets concurrency, the site plan application shall be subject to review by the Administrative Official and exempt from a quasi-judicial public hearing requirement in Subsection (g) of this section. The applicant shall provide a copy of the vested rights determination to the Town's Department of Planning and Zoning with the site plan application. The vested rights determination shall be reviewed by the Town Attorney to ensure that the applicant has a valid vested rights determination.~~

EXHIBIT B

Chapter 13 LAND DEVELOPMENT CODE

ARTICLE X. CONCURRENCY REGULATIONS AND MITIGATION OF DEVELOPMENT IMPACTS

DIVISION 1. - GENERALLY

Sec. 13-2001. - Purpose.

The purpose of this article is to implement the Town of Miami Lakes Comprehensive Plan by ensure~~e~~ing that the infrastructure necessary to serve new development is available concurrently with the impacts of that new development, and to facilitate the mitigation of transportation impacts of development and creation of an effective multimodal transportation network in the Town. Impact is measured with respect to the planned multimodal transportation network and/or ~~against~~ the adopted minimum acceptable levels of service with respect to:

(1) ~~Roads~~ Transportation infrastructure;

(2) Sanitary sewer;

(3) Solid waste;

(4) Drainage;

(5) Potable water;

(6) Parks and open space; and

(7) Public schools.

DIVISION 2. – MOBILITY FEE

Sec. 13-2002. - ~~Transportation Concurrency Management Program~~ Title, authority and applicability.

~~(a) Title. This section shall be known as, and may be cited as, the "Town of Miami Lakes Transportation Concurrency Management Program."~~

~~(b) Legislative intent.~~

~~(1) This section is intended to implement the comprehensive plan, by ensuring that development approved by the Town shall not result in a reduction of roadway level of service below the standards contained in the Town of Miami Lakes Comprehensive Plan, as required by F.S. § 163.3202(2)(g).~~

~~(2) Nothing in this section shall be construed to be inconsistent or in conflict with the legislative intent of the adopted comprehensive plan and that legislative intent is hereby incorporated by reference and made a part of this section.~~

~~(3) Nothing in this section shall limit or modify the rights of any person to complete any development that has been authorized as a development of regional impact pursuant to F.S. ch. 380, or who has been issued a final development order, as defined in this section, prior to the adoption of the ordinance from which this section is derived, and where development has commenced and is continuing in good faith. Subdivisions or waivers of plat approved prior to July 1, 2005, and for which development has commenced and is continuing in good faith are hereby determined to be final development orders for purposes of this section. It is further determined that, for purposes of this section, development has commenced and is continuing in good faith if one of the following has occurred:~~

a. The applicant received prior tentative plat approval and received final plat approval within 180 days subsequent thereto, and has applied for a building permit within a period of 120 days following final plat approval;

b. The applicant has received a waiver of plat approval and has applied for a building permit within 120 days of approval;

c. The Town approved a final development order prior to the effective date of the ordinance from which this section is derived;

d. The Town has approved a site plan and the applicant has applied for a building permit within 12 months of the site plan approval; or

e. The applicant has received a vested rights determination from Miami-Dade County under Chapter 33 (see Section 13-1) or Section 2-114, of the Code of Metropolitan Dade County, or from the Town Council pursuant to Section 13-310 of this Code.

(c) Definitions. The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Application for development permit means an application submitted to the Town requesting issuance of a development permit.

Background traffic means the amount of future traffic growth that is not attributable to a particular committed project and is usually estimated by applying a percent growth factor.

Capacity means a quantitative measure of the ability of the roadway or public facility to provide for use of the roadway or public facility.

Capital Improvements Element means the Capital Improvements Element of the Town of Miami Lakes adopted Comprehensive Plan.

Committed traffic means all traffic for approved development agreements, development orders, or development permits that have received a concurrency reservation from the Town or other agency with the authority to grant reservations.

Concurrency determination means a statement issued by the Town Engineer upon request stating that there appears to be sufficient roadway capacity so that designated levels of service shall be adequate for the project for which the concurrency determination is issued. A concurrency determination reserves no roadway capacity and is in no way binding on the Town.

Concurrency Management Database and Monitoring System Report (or Concurrency Management Report) means the technical administrative manual, adopted by reference in this section, which sets forth the details of administrative procedures and methodology for determinations of concurrency.

Count location means the location of a traffic counter on a specific roadway, as approved by the Town Engineer.

Development means any construction, structures, or alteration of the land surface, or use of land which requires authorization by the Town through issuance of a development order as defined in this section.

Development agreement means an agreement entered into between the Town and a developer for the purpose of assuring the Town that the developer shall provide required transportation facility capacity or other conditions of the development agreement. The term "development agreement" includes, but is not limited to, agreements authorized pursuant to F.S. §§ 163.3220 and 380.032.

Development order (DO) means any order granting, denying, or granting with conditions an application for a development permit.

Final development order means any final plat or waiver of plat approved subsequent to the adoption of the ordinance from which this section is derived; or any building permit authorizing construction of a new building, or the expansion of floor area, or the increase in the number of dwelling units contained in

~~an existing building, or modifications to an existing building or site to accommodate a change in use for which a new certificate of use and occupancy are required; and any certificate of use or occupancy authorizing a change in the use or authorizing the initial use of a parcel or structure or portion thereof where there is no other final development order in effect.~~

~~Funded and programmed describes a roadway improvement project included in the current capital improvements budget for the Town, the Transportation Improvement Program for the Miami-Dade Metropolitan Planning Organization, or the State Department of Transportation Five-Year Work Program.~~

~~Level of service (LOS) standard for roadways means the standards for minimum acceptable levels of service for roadways contained in the Transportation Element of the Town of Miami Lakes Comprehensive Plan, as amended, usually measured by letter grades between A and F.~~

~~Level of service (LOS) volume means the maximum amount of traffic that can be accommodated at the adopted LOS standard, measured in vehicles per hour.~~

~~Major thoroughfares means:~~

~~(1) All existing, proposed, or approved roadways that function or would function as major thoroughfares as determined by the Town Engineer based on consideration of the following criteria:~~

~~a. Provides continuity of an existing roadway;~~

~~b. Provides connectivity to other links of the thoroughfare network;~~

~~c. Carries or is projected to carry a volume of at least 1,310 two-way peak hour trips;~~

~~d. Provides an opportunity for reducing vehicle miles traveled;~~

~~e. Provides an alternative to a parallel thoroughfare network roadway such that the demand on the parallel roadway is decreased.~~

~~(2) All proposed and approved roads that would, if built, function as arterials and major collectors during the buildout period of the proposed project as determined by the Town Engineer in accordance with accepted traffic engineering principles.~~

~~Preliminary development order means any approval for a rezoning, tentative plat, site plan, or other development order which is not a final development order.~~

~~Programmed means a roadway improvement project that is listed in the Capital Improvements Element (CIE). Such improvements are unfunded unless in the current year of the capital budget for the Town, the Transportation Improvement Program for the Miami-Dade Metropolitan Planning Organization, or the State Department of Transportation Five-Year Work Program.~~

~~Programmed for construction refers to a proposed roadway improvement project that is included in the Capital Improvements Element and scheduled for construction.~~

~~Radius of development influence means the distance, measured along roadways from the project's point of access to the roadway network, within which traffic from a proposed project may influence the level of service on the roadway.~~

~~Reservation means the act of setting aside a portion of available transportation or roadway capacity necessary to accommodate valid development orders.~~

~~Roadway impact mitigation measures includes all proposed measures, other than provision of services or facilities as defined herein, which will demonstrably reduce the impact of the prospective development on said services or facilities.~~

~~Roadway improvement project includes all roadway or transportation projects within the Town that propose to provide a capacity improvement to a particular link, corridor, or intersection.~~

~~Significantly impacted roadway means one on which the amount of traffic assigned from a proposed project is greater than one percent of the adopted level of service volume.~~

~~Site plan approval means a site plan approved by the Town which is subject to concurrency review. A site plan approval is not a final development order.~~

~~Strategic intermodal system means, as defined in F.S. § 339.61, a Statewide system of high priority transportation facilities, including the state's largest and most significant commercial service airport, spaceport, deepwater seaport, freight rail terminal, passenger rail and intercity bus terminals, rail corridors, waterways and highways.~~

~~Town Engineer means the person responsible for the management of the Town concurrency program and review of transportation concurrency applications, as assigned by the Town Manager or designee.~~

~~Transportation Improvement Program (TIP) refers to the official document adopted by the Miami-Dade County Metropolitan Planning Organization (MPO) specifying proposed transportation improvements to be implemented over the coming five years.~~

~~Under construction is defined by the date the applicable construction contract is executed for a public facility or roadway improvement project by the appropriate State, regional, County, or municipal provider. When the improvement is the responsibility of the developer, approval of such permits shall require proof of sufficient bonding or letter of credit securing construction.~~

~~(d) Transportation concurrency management.~~

~~(1) Level of service standards. Level of service (LOS) is measured based on the latest edition of the Highway Capacity Manual and the latest edition of the State Department of Transportation Q/LOS Handbook. The LOS standard is the minimum acceptable peak period operating LOS for all Town, County, and State roads in the Town. The following LOS standards for the Town, County, and State roads, as defined in the Town of Miami Lakes Comprehensive Plan, are:~~

~~a. The minimum acceptable LOS for all roads within the Town east of the Palmetto Expressway (State Road 826) shall be LOS "E".~~

~~b. The minimum acceptable LOS for all major roadways west of the Palmetto Expressway (SR 826) shall be LOS "D" or better, except the minimum acceptable LOS for state urban minor arterial roads shall be LOS "E".~~

~~c. Where public transit service exists with service headways of 20 minutes or less located less than one-half mile from a transit corridor, the minimum acceptable LOS for all roadways in Town shall be LOS "E".~~

~~(2) Transportation concurrency monitoring. In order to ensure that adequate transportation facilities are available concurrent with the impacts of development, the Town shall establish the following transportation concurrency monitoring and review practices. Methods for monitoring existing LOS conditions are as follows:~~

~~a. Level of service determinations for the Town's major thoroughfares, including arterial and collector roads, hereinafter referred to as roadways, will be made by the Town Engineer. Monitoring should be by the Town Engineer based on his acceptance of traffic count data in the Town, available from Miami-Dade County, or available from the State Department of Transportation, and certified data provided by registered professional traffic engineers, all of which will have been collected in the Town.~~

~~b. Roadway levels of service shall be based on the procedures, guidelines, and methodology detailed in the Town's Concurrency Management Database and Monitoring System Report (or Concurrency Management Report or Report). The Concurrency Management Report shall be developed by the Town Engineer. The Report shall include a list of count station locations, level of service standards, existing traffic, committed traffic, and available traffic, and shall graphically depict the current peak-period LOS for arterial and collector roadways in the Town, including the volume/capacity ratios for all such roads operating at LOS "D", "E", or "F".~~

c. The Town Engineer shall develop and maintain the Concurrency Management Report and update periodically as significant new information becomes available, but at least annually.

(3) Transportation concurrency review. In order for a proposed project to meet concurrency all significantly impacted roadways (greater than one percent of the roadway's level of service volume) within the project's radius of development influence must operate within the adopted level of service standard.

a. Levels of transportation concurrency review.

1. Concurrency determination. A determination by the Town Engineer as to whether capacity for a particular project appears to exist. The determination reserves no capacity and is in no way binding upon the Town.

2. Concurrency exemption. A determination by the Town Engineer as to whether a proposed project is exempt from traffic concurrency pursuant to the terms of this section.

3. Concurrency reservation. A determination by Town Engineer as to a proposed project in conjunction with a development agreement or final development order, evidencing that all available transportation facility capacity to serve a proposed project is available and has been reserved.

4. Conditional reservation. A determination by the Town Engineer as to a proposed project in conjunction with a development agreement or final development order, evidencing that:

(i) All available transportation facility capacity to serve a proposed project has been reserved, but such capacity is not adequate to serve the proposed project;

(ii) The additional transportation facility capacity needed for the proposed project may be assured by an executed development agreement; and

(iii) A request by the applicant has been made for consideration and approval by the Town Council of a development agreement concurrent with an application for a final development order.

b. Rules of general applicability. It is the policy of the Town that no development orders shall be issued unless adequate transportation facilities are available to serve the project which is the subject of the final development order. In order to ensure that adequate transportation facilities are available concurrent with the impacts of development, the procedures of this section shall govern the issuance of rezonings, site plan approvals, and other development orders.

1. An application for a concurrency determination, a certification of exemption, a concurrency reservation, or a conditional concurrency reservation may be submitted at any time during the year.

2. A certification of concurrency exemption, a concurrency reservation, or a conditional concurrency reservation shall apply only to the parcel and project as described in the application and shall not be transferable or assignable to any other project. However, the concurrency reservation may be transferred upon sale of the property but shall only apply to the project presented in the application.

3. A certification of concurrency exemption, a concurrency reservation, or a conditional concurrency reservation is initially valid for one year, during which time an application for a final development order must be applied for as to the project for which the exemption, reservation, or conditional reservation was approved. If a final development order is approved for a project for which an exemption, reservation, or conditional reservation was issued, the applicable exemption, reservation, or conditional reservation is valid for the life of the final development order.

4. A concurrency determination, a certification of exemption, a concurrency reservation, or a conditional concurrency reservation shall apply only to the specific land uses, densities, and intensities based on information provided in the application, and where applicable, the final development order or site plan approval. All applicants, to the extent required by the Town Engineer, shall submit applications for entire projects. An applicant may not reserve more capacity than that which is reasonably required for a project.

c. Exemptions.

1. The following types of development shall be exempt from the requirements of this section, but only to the extent stated in an applicable certification of exemption provided by the Town Engineer:

(i) An alteration to a project which is the subject of a final development order which does not create any additional impacts on transportation facilities;

(ii) The construction of accessory buildings or structures which do not create additional impacts on public facilities;

(iii) The replacement of (1) an existing dwelling unit when no additional dwelling units are created, or (2) an existing nonresidential structure when the type of use is unchanged and no additional square footage is added; and provided there remains an equivalent traffic impact;

(iv) Up to five single-family homes or an apartment with four units or less, to be constructed on a legal platted lot of record existing prior to January 1, 2005, within any 12-month period by the same property owner or developer.

2. A development which meets the following de minimis impact thresholds is also exempt from the requirements of this section, but only to the extent stated in an applicable certification of exemption provided by the Town Engineer:

(i) An impact that would not affect more than one percent of the maximum volume at the adopted level of service of the affected transportation facility as determined by the Town Engineer.

(ii) An impact for which the sum of existing roadway volumes and the projected volumes from approved projects on a transportation facility does not exceed 110 percent of the maximum volume at the adopted level of service of the affected transportation facility.

(iii) An impact that would not exceed the adopted level of service standard of any affected designated hurricane evacuation routes.

3. Upon application for exemption for a project pursuant to the terms of this section, the Town Engineer shall issue a certification of exemption.

d. Previously vested/reserved trips. Any development project that has a valid traffic concurrency reservation, where the project has continued in good faith toward the completion, or any development which has received concurrency approval from Miami-Dade County Public Works prior to the effective date of the ordinance from which this division is derived shall be considered vested for the period of the Miami-Dade County reservation or 12 months, whichever occurs first. Two extensions of no more than three months each (or a total of six months) may be granted by the Town Council.

e. Concurrency application.

1. A preapplication conference is required for all proposed projects, to be held at least two weeks prior to the submittal of a concurrency reservation application, in order to avoid unnecessary delays or confusion in the application and review processes. An informal meeting will be arranged by the applicant with the Planning Department, the Town Engineer, and other appropriate staff, as necessary, to discuss the proposal

and to review any preliminary plans the applicant may wish to present. The preapplication conference will be utilized to determine any additional traffic impact analysis requirements that will be necessary based upon the scope of the proposed project.

2. The concurrency reservation application requirements may be modified by the Town Engineer. At a minimum, the concurrency reservation applications will include a project address or project location description, a property control or folio identification number, the project acreage, a list of specific uses, densities, and intensities, any proposed phasing, the owner and agent contact information, identification of the level of concurrency review requested, and the traffic impact analysis as required in Subsection (d)(3)e4 of this section.

3. For requests for concurrency determinations, a traffic impact analysis is not required; however, the applicant may elect to submit a traffic impact analysis certified by a registered professional traffic engineer, at the applicant's own expense. Whenever a traffic impact analysis, properly prepared by a registered professional traffic engineer, is submitted in conjunction with an application to the Town Engineer, that impact analysis shall be utilized for purposes of the level of service concurrency determination, as deemed appropriate by the Town Engineer.

4. The traffic impact analysis shall be certified by a registered professional traffic engineer, and shall include the following minimum analysis as well as any additional analysis identified at the preapplication conference:

(i) Trip generation. AM/PM peak hour analysis, internalization, and pass-by capture rates;

(ii) Trip assignment. May be determined utilizing the following methods:

• FSUTMS modeling by applicant;

• Accepted professional traffic engineering trip assignment, as approved by the Town; and

• Miami-Dade County cardinal distribution, as approved by the Town Engineer (use of the cardinal distribution may require adjustment based upon project and associated traffic issues).

(iii) Access analysis including driveways, turn lanes, and signalized intersections within one-half mile of the project location.

(iv) Analysis of all signalized intersections on links that provide direct access to the project site and which have an impact of at least two percent of the adopted level of service threshold.

(v) Other analysis techniques proposed must be substantiated by the applicant and found by the Town Engineer to be acceptable. For example, an applicant may choose to utilize either the latest edition of the Highway Capacity Manual (HCM), the generalized roadway levels of service in the latest edition of the FDOT Quality/Level of Service (Q/LOS) Handbook, or the roadway specific levels of service developed by the most recent version of the FDOT ARTPLAN to present an alternative to the roadway levels of service established by the Town.

(vi) Peak trip generation assumptions may be adjusted if the assumptions are submitted by the applicant and found by the Town Engineer to be acceptable, and the applicant demonstrates that effective measures will be employed that will cause the peak traffic generation characteristics of the proposed development to be significantly lower than the normal project of the same type on which the peak trip generation factors are based.

f. Methods for evaluating development impacts.

1. Table 1 represents the minimum radius of development influence for the specific volume of the proposed project's net trips. Development shall be evaluated for impact based upon the radius of development influence.

TABLE 1. MINIMUM RADIUS OF DEVELOPMENT INFLUENCE

Net External Two-Way Peak Hour Trip Generation (# of trips)	Distance
1—20	Directly accessed link(s) of first accessed major thoroughfare(s)
21—50	0.5 mile
51—100	1 mile
101—500	2 miles
501 or more	3 miles

2. A development's impact on the roadway system shall be determined by using the trip generation rates set forth in the most recent edition of Trip Generation published by the Institute of Transportation Engineers (ITE), Washington, D.C., or other professionally accepted trip generation rates. It shall include evaluation for its direct effect on an arterial or collector roadway adjacent to the point(s) of project access.

3. Any applicable transportation facility improvements, committed or programmed, will be included to reflect the additional roadway capacity that will become available within three years of the date of an approved development order.

4. The peak traffic assignment of the proposed development shall be added to the existing traffic, plus background traffic and any committed traffic to calculate the total traffic. To determine conformance with the LOS standard, this total traffic cannot be greater than the existing and/or programmed adopted level of service volume for the roadway.

5. For roadways where an applicable traffic count does not exist or recent count has not been conducted within six months, the applicant must provide a count certified by a registered professional traffic engineer at the applicant's expense.

g. Concurrency review process.

1. Preliminary development orders.

(i) Preliminary development orders do not directly authorize development to commence or are so conceptual that they do not allow an accurate assessment of a project's impact on transportation facilities. Preliminary development orders require subsequent final development orders which are subject to concurrency review. Preliminary development orders may not apply for or receive a certification of exemption, a concurrency reservation, or a conditional concurrency reservation, but a concurrency determination may be requested.

(ii) Staff shall include as part of the preliminary development order a condition that the issuance of any subsequent final development order is contingent upon the applicant obtaining a certification of exemption, a concurrency reservation, or a conditional concurrency reservation.

• All applicants for final development orders shall submit with such application a certification of exemption, a concurrency reservation, or a conditional concurrency reservation.

• An application for either a concurrency determination, a certification of exemption, a concurrency reservation, or a conditional concurrency reservation shall be submitted to the Town Engineer, on such form as is promulgated by the Town. The Town Engineer shall charge a review fee based upon the transportation concurrency fee schedule adopted by resolution of the Town Council. The application shall consist of such information as required by the Town Engineer. An application fee and/or deposit shall be paid as provided for in Section 13-2101 and Section 13-2102.

• After receipt of an application, the Town Engineer shall determine whether it is complete with 14 calendar days after its submission. If it is determined that the application is not complete, written notice shall be forwarded to the applicant specifying the deficiencies. The Town Engineer shall take no further action on the application unless the deficiencies are remedied.

• Within 45 calendar days after receipt of a complete application, the Town Engineer shall either conclude the application is approved or denied. If denied, the denial shall be in writing and shall include reasons for denial. In the event that the Town review of the concurrency application reveals level of service deficiencies, the Town shall determine whether there is a financial or other legally binding commitment to ensure the public facilities necessary to correct the anticipated deficiency will be in place concurrent with the impacts of the proposed development. If the Town and/or a developer are unable to provide such assurances, the project shall be denied.

• If a concurrency reservation is approved, the approval shall require the payment of a fee for reserving capacity, which fee must be paid within ten calendar days of the issuance of the concurrency reservation, or the reservation shall be canceled. If a conditional concurrency reservation is approved, the approval shall require the payment of a fee for reserving capacity, which fee must be paid within ten calendar days of the Town Council's approval of the development agreement or proportionate fair-share mitigation agreement submitted with the conditional concurrency reservation, or the conditional concurrency approval shall be canceled. In either case, the final development order shall not be issued until the capacity reservation fee is paid. Transportation facility capacity shall be granted on a first-come, first-serve basis, determined as of the date and time a concurrency reservation or conditional concurrency reservation is issued.

2. Appeals.

(i) An applicant may appeal any final decision issued pursuant to this section by the Town Engineer by filing a written appeal to the Town Clerk's office within 14 calendar days after such decision. The Town Council shall hear such appeal at a public hearing with reasonable notice to the applicant and shall issue its opinion within a reasonable time after such hearing.

(ii) The Town Council's decision shall be final for the purpose of administrative appeals, and an applicant may thereafter appeal the Town Council's decision to the circuit court having jurisdiction over the Town.

(iii) All appellate decisions shall be based upon the criteria and standards contained in this section.

(iv) Any appeal provisions already established in the Town Code which are in conflict with provisions in this section shall take precedence.

(e) Fee schedule. A schedule of fees and/or cost recovery provisions covering the cost of the concurrency management program shall be as provided for in Section 13-2101 and Section 13-2102. No application, permit, or receipt shall be issued until the appropriate fee and/or deposit is paid.

(f) Transportation proportionate fair-share mitigation. In order 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, there shall be a program known as the Transportation Proportionate Fair-Share Mitigation Program (the "Fair-Share Mitigation Program"), as required by and in a manner consistent with F.S. § 163.3180(16). The Fair-Share Mitigation Program shall apply to all developments in the Town that have been notified of a lack of capacity to satisfy transportation concurrency, including transportation facilities maintained by the State Department of Transportation (the "FDOT") or another government agency which are relied upon for concurrency determinations. The Proportionate Fair-Share Program does not apply to developments of regional impact (DRIs) using proportionate share under F.S. § 163.3180(12), or to developments exempted from concurrency as provided in Subsection (d)(3)c of this section.

(1) General requirements.

a. An applicant may propose to satisfy the transportation concurrency requirements of the Town by making a proportionate fair-share contribution only if the following requirements are met:

1. The proposed development is consistent with the comprehensive plan and applicable land development regulations; and

2. The five-year schedule of capital improvements in the Town's Capital Improvements Plan (the "CIP") includes a transportation improvement that, upon completion, will satisfy the requirements of the Town's transportation concurrency management system (the "CMS"). The provisions of Subsection (f)(1)b of this section may apply if a project or projects needed to satisfy concurrency are not presently contained within the local government CIP.

b. The Town, in its sole discretion, may choose to allow an applicant to satisfy transportation concurrency through the Fair-Share Mitigation Program by contributing to an improvement that, upon completion, will satisfy the requirements of the Town's transportation CMS, but is not contained in the five-year schedule of capital improvements in the CIP, where the following conditions are met:

1. The Town adopts, by resolution or ordinance, a commitment to add the improvement to the five-year schedule of capital improvements in the CIP no later than the next regularly scheduled update. To qualify for consideration under this section, the proposed improvement must be reviewed by the Town Council, 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 article. Financial feasibility for this section means that additional contributions, payments or funding sources are reasonably anticipated during a period not to exceed five years to fully mitigate impacts on the transportation facilities.

2. If the funds allocated for the five-year schedule of capital improvements in the Town's CIP are insufficient to fully fund construction of a transportation improvement required by the CMS, the Town 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 at the next annual capital improvements update.

3. Any improvement project proposed to meet the developer's fair-share obligation must meet applicable design standards of the jurisdiction which controls.

4. It shall be the applicant's sole responsibility to make a determination what improvement must to be made to satisfy concurrency requirements. Such determination shall be in a form consistent with the CMS and shall be reviewed by the Town for adequacy. It shall be in the Town's sole discretion whether the requested addition to the CIP shall be added.

(2) Intergovernmental coordination. Pursuant to policies in the Intergovernmental Coordination Element of the Town's comprehensive plan and applicable policies in the Strategic Regional Policy Plan for South Florida, the Town shall coordinate with affected jurisdictions, including FDOT and Miami-Dade County, regarding mitigation to impacted facilities not under the jurisdiction of the local government receiving the application for proportionate fair-share mitigation. An interlocal agreement may be established with other affected jurisdictions for this purpose.

(3) Application process.

a. Upon notification of a lack of capacity to satisfy transportation concurrency, the applicant shall also be notified in writing of the opportunity to satisfy transportation concurrency through the Fair-Share Mitigation Program.

b. Prior to submitting an application for a proportionate fair-share agreement, a preapplication meeting shall be held to discuss eligibility, application submittal requirements, potential mitigation options, and related issues. If the impacted facility is on the Strategic Intermodal System ("'SIS"), then the FDOT or any other affected governmental entity will be notified and invited to participate in the preapplication meeting.

c. Eligible applicants shall submit an application to the Town that includes an application fee and/or deposit as provided for in Section 13-2101 and Section 13-2102, and the following:

1. Name, address and phone number of owner, developer and agent;

2. Property location, including parcel identification numbers;

3. Legal description and survey of property;

4. Project description, including type, intensity and amount of development;

5. Phasing schedule, if applicable;

6. Description of requested proportionate fair-share mitigation methods;

7. Copy of concurrency application;

8. Traffic impact analysis; and

9. Proposed draft proportionate fair-share mitigation agreement.

d. The Director of Planning and Zoning shall review the application and certify that the application is sufficient and complete within 20 business days. If an application is determined to be insufficient, incomplete or inconsistent with the general requirements of the Fair-Share Mitigation Program as indicated in Subsection (f)(1) of this section, then the applicant will be notified in writing of the reasons for such deficiencies within 20 business days of submittal of the application. If such deficiencies are not remedied by the applicant within 45 days of receipt of the written notification, then the application will be deemed abandoned. The director may, in his or her sole discretion and upon a showing of good cause, grant an extension of time not to exceed 60 calendar days from the date of the request to cure such deficiencies, provided that the applicant has shown good cause for the extension and has taken reasonable steps to effect a cure.

e. Pursuant to F.S. § 163.3180(16)(e), proposed proportionate fair-share mitigation for development impacts to facilities on the SIS requires the concurrency of the FDOT. The

applicant shall submit evidence of an agreement between the applicant and the FDOT or any other applicable government agency for inclusion in the proportionate fair-share agreement.

f. When an application is deemed sufficient, 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 applicant with direction from the Town and delivered to the appropriate parties for review, including a copy to the FDOT if on a SIS facility or County if on a County road, no later than 60 days from the date at which the applicant received the notification of a sufficient application and no fewer than 14 days prior to the Council meeting when the agreement will be considered.

g. The Town shall notify the applicant regarding the date of the Council meeting when the development proposal, including the proportionate fair-share mitigation agreement executed by the developer, will be considered for final approval. No proportionate fair-share agreement will be effective until approved by the Council.

(4) Determining proportionate fair-share obligation.

a. 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.

b. 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.

c. 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:

"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 LOS, multiplied by the construction cost, at the time of developer payment, of the improvement necessary to maintain the adopted LOS."

OR

$$\text{Proportionate Fair-Share} = \Sigma[[(\text{Development Trips}_i)/(\text{SV Increase}_i)] \times \text{Cost}_i]$$

Where:

$\text{Development Trips}_i$ = Those trips from the stage or phase of development under review that are assigned to roadway segment "i" and have triggered a deficiency per the concurrency management system;

SV Increase_i = Service volume increase provided by the eligible improvement to roadway segment "i" per Subsection (f)(1) of this section;

Cost_i = Adjusted cost of the improvement to segment "i". Cost shall include all improvements and associated costs, such as design, right-of-way acquisition, planning, engineering, inspection, and physical development costs directly associated with construction at the anticipated cost in the year it will be incurred.

d. For the purposes of determining proportionate fair-share obligations, the Town shall determine improvement costs based upon the actual cost of the improvement as obtained from the CIP, the MPO Transportation Improvement Program or the FDOT Work Program. Where such information is not available, improvement cost shall be determined using one of the following methods:

1. If the Town has accepted an improvement project proposed by the applicant, then the value of the improvement shall be based on an engineer's certified cost estimate provided by the applicant and approved by the Town's Public Works Director.

2. If the Town has accepted a dedication of property for public purposes 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 120 percent of the most recent assessed value by the County Property Appraiser or, at the option of the applicant, by fair market value established by an independent appraisal approved by the Town and at no expense to the Town. 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 Town at no expense to the Town. If the estimated value of the right-of-way dedication proposed by the applicant is less than the Town 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 FDOT for essential information about compliance with federal law and regulations.

(5) Impact fee credit for proportionate fair-share mitigation.

a. Where mitigation is occurring on County roads, proportionate fair-share contributions shall be applied as a credit against 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.

b. Impact fee credits for the proportionate fair-share contribution will be determined when the transportation impact fee obligation is calculated for the proposed development. Impact fees owed by the applicant will be reduced per the proportionate fair-share agreement as they become due per the County's impact fee ordinance. If the applicant's proportionate fair-share obligation is less than the development's anticipated road 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 County pursuant to the requirements of the County impact fee ordinance.

c. The proportionate fair-share obligation is intended to mitigate the transportation impacts of a proposed development at a specific location. As a result, any road 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's impact fee ordinance.

(6) Proportionate fair-share agreements.

a. Upon the applicant's execution of a proportionate fair-share agreement the applicant shall receive a determination that the developer has satisfied concurrency requirements. Should the applicant fail to apply for a development permit within 12 months of the execution of the agreement, then the fair-share agreement shall be considered null and void, and the applicant shall be required to reapply.

b. Payment of the proportionate fair-share contribution is due in full prior to issuance of the final development order or recording of the final plat and shall be nonrefundable. 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 Subsection (f)(4) of this section and adjusted accordingly.

c. All developer improvements authorized under this article 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. Any required improvements shall be completed before issuance of building permits or certificates of occupancy.~~

~~d. Dedication of necessary property for public purposes 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.~~

~~e. 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.~~

~~f. 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 Town will be nonrefundable.~~

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

~~h. Proportionate fair-share agreements shall contain a provision setting forth the amount of impact fee credit if applicable.~~

~~(7) Appropriation of fair-share revenues.~~

~~a. Proportionate fair-share revenues shall be placed in the appropriate project account for funding of scheduled improvements in the Town's CIP, or as otherwise established in the terms of the proportionate fair-share agreement. At the discretion of the Town, 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 FDOT Transportation Regional Incentive Program.~~

~~b. In the event a scheduled facility improvement is removed from the CIP, 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 Subsection (f)(1)b.2 of this section.~~

(a) This division shall be known and may be cited as the Town of Miami Lakes Mobility Fee Ordinance.

(b) The provisions of this division shall apply to all land development in the incorporated areas of the Town.

(c) This division and the obligations herein for the payment of mobility fees shall apply to all development projects that apply for a building permit and/or certificate of use, as applicable, on or after the effective date of this division, except as may be specifically provided for elsewhere in this division.

(d) All development projects that submit a complete application and obtain a building permit and/or certificate of use, as applicable, prior to the effective date of this division will meet any obligations ~~pay any mobility fee~~ established by the then-current transportation concurrency ordinance, and will not be required to pay the mobility fee established herein.

Sec. 13-2003. Reserved. ~~Adoption of alternative to concurrency study.~~

~~The Council hereby adopts and incorporates by reference, the study entitled "Town of Miami Lakes Alternative to Concurrency Study" (hereinafter "Study"). This Study presents the most recent technical analysis supporting the Town mobility fees. The Alternative to Concurrency Study is available in the office of the Town Clerk.~~

Sec. 13-2004. Timing of calculation and payment of mobility fee due.

(a) All development projects occurring within the incorporated area of the Town shall pay the mobility fee established in this division, except as explicitly otherwise provided for herein. For purposes of this division, the term "development projects" shall include any construction activity, or the establishment of a land use or change of a land use and any activities appurtenant thereto.

(b) Except as otherwise provided in this division, the mobility fee shall be paid directly to the Town prior to the issuance of a building permit or a certificate of use, as applicable, whichever occurs earlier.

(c) Where a development project or change of use requires a conditional use, site plan or plat approval prior to issuance of a building permit, the amount of the mobility fee due may, at the option of the applicant, be calculated and established as part of one of those processes, and such amount when established shall remain in effect until the conditional use, site plan or plat approval expires, regardless of any changes in the rate per daily trip that may occur in the interim between such approval and the issuance of a building permit or certificate of use, as applicable. However, if such approval is subject to a request for an extension, the mobility fee due shall be reevaluated as part of the extension (if granted) and any changes in the rate per daily trip that have occurred in the interim between the original approval and the expiration of the approval (regardless of when the application for extension is submitted) shall be applied.

(d) For development projects involving the subdivision of land into single family or two-family lots, the entire mobility fee due shall be paid prior to issuance of the first building permit in the subdivision, regardless of whether such permit authorizes construction of a residential structure or other structure, such as a club house, guard house or similar common amenity.

(e) For proposed development other than subdivision into single family or two-family lots, the mobility fee due shall be paid prior to issuance of the first building permit that includes authorization to begin work on a structure or paving.

Sec. 13-2005. Calculation of mobility fee due.

(a) The mobility fee due for a development project shall be calculated as follows:

(1) The project's ~~total~~ net daily person-trip generation, as determined according to the procedures in this section, shall be multiplied by the rate per daily trip established according to the procedures in Section 13-2006.

(2) From the result of Subsection (a)(1) of this section, subtract the value of any mobility credits earned according to Section 13-2007. The result is the mobility fee due.

(b) A development project's net daily person-trip generation shall be determined by one of the following methods:

(1) The weekday trip generation rate of the land use(s) proposed in the development project, minus the pass-by rate, each according to the most current edition of the *Trip Generation Manual*, published by the Institute for Transportation Engineers (ITE) (hereafter "Trip Generation Manual"). Thereafter, multiply the result by the mean auto occupancy of trips generated by that land use, determined according to subsection (b)(2) of this section. In the event that a development project involves a land use not included in the Trip Generation Manual, the Administrative Official shall calculate the appropriate mobility fee. The Administrative Official shall utilize as a

standard in this determination the trip generation rates in the most similar land use category or any other generally accepted standard source of transportation engineering or planning.

(2) The mean auto occupancy of trips generated for each land use shall be established, and amended from time to time, by resolution of the Town Council. Mean auto occupancy shall be based on the best available data, and shall initially be determined by the October 2000 *Southeast Florida Regional Travel Characteristics Study*. Upon the publication of more recent, professionally-accepted data and analysis appropriate to establish mean auto occupancy, the Town Council shall amend said the mean auto occupancy by land use by resolution.

(3) Alternative trip generation study.

a. In the event an applicant reasonably believes that the daily trip generation pursuant to subsection (b)(1) of this section does not reasonably approximate the likely actual trip generation of the proposed development, then the applicant may, prior to issuance of a building permit for such development project, file with the Administrative Official an alternative trip generation study, along with the fee prescribed by Article XI, that seeks to establish an alternative fee. This study shall be based on standard engineering and planning practice, using the Trip Generation Manual as a base. The Administrative Official shall review the alternative calculations and make a determination within 30 days of submittal as to whether such calculation complies with the requirements of this section. Failure to render a decision within 30 days shall be deemed a denial.

b. If the Administrative Official determines that the data, information and assumptions utilized by the applicant to establish an alternative trip generation is more appropriate, then the mobility fee assessed shall be paid based on the alternative methodology.

c. If the Administrative Official determines that the data, information and assumptions utilized by the applicant to establish an alternative trip generation does not demonstrate that it is a more appropriate approximation of the likely actual daily trip generation of the development project, then the Administrative Official shall provide to the applicant written notification of the rejection of the alternative trip generation and the reasons therefore, including notification that the mobility fee as applicable, shall be paid in accordance with the provisions of this division.

d. An applicant who submits a proposed alternative trip generation pursuant to this subsection and desires the issuance of a building permit prior to the resolution of a pending alternative fee shall pay the applicable mobility fee prior to or at the time said applicant desires the building permit. Said payment shall be deemed paid "under protest" and shall not be construed as a waiver of any rights. Any difference in the amount of the fee after resolution of the pending alternative fee shall be refunded to the applicant or owner.

(d) In the event a development project involves a mixed use project, the Administrative Official shall calculate the mobility fee based upon each land use category included in the proposed mixed use project, and the proportion of the total project represented by each land use category.

(e) An applicant may appeal any determination of the Administrative Official under the provisions of this Section in accordance with Subsection 13-302(i).

Sec. 13-2006. Establishment of rate per daily trip.

(a) The rate per daily trip, and subsequent amendments thereto, shall be established by the Town Council by resolution, based on the methodology as described in subsection (b) of this section. The rate per daily trip shall be reviewed by the Town Council at least once every three years, but may be reviewed more frequently. The initial and each review thereafter shall consider changes to the demand component of the mobility fee equation, changes to the Town's CIE, changes in construction, land acquisition and related costs, changes in historical and projected funding, adjustments to the assumptions and conclusions or findings set forth in the Study.

(b) The rate per daily trip shall be calculated as follows:

(1) Determine the difference between current development and projected future development levels ~~twenty years into the future~~, based on the Comprehensive Plan.

(2) Determine daily weekday person-trip generation from projected increases in development levels determined per subsection (b)(1) of this section from the Trip Generation Manual and Household Survey Model;

(3) Compute transportation improvement costs from the Town's Capital Improvements Element (CIE), other adopted Town transportation mobility plans and policies, and Unfunded Projects from the Long Range Transportation Plan (LRTP) of the Miami-Dade Metropolitan Planning Organization (MPO). Costs shall be adjusted from the time of their original estimation to account for inflation, according to the "Inflation Factors" published by the Florida Department of Transportation (FDOT);

(4) Compute Total Cost per Daily Trip, which shall be the result from subsection (b)(3) of this section divided by the result from subsection (b)(2) of this section; and,

(5) Add five percent administrative costs to the result of the computation in subsection (b)(4) of this section.

Section 13-2007. Mobility fee credits.

The Town Council finds that certain improvements or actions instituted or committed to as part of a development project tend to partially mitigate the development's impact upon the transportation system, reduce peak hour traffic congestion and/or shift trips from single-occupant vehicle travel to other modes. Therefore, those improvements or actions, when not otherwise required by local, state or federal laws or regulations, may reduce the mobility fee due for a development project, as further set out herein.

(a) A developer wishing to receive a mobility fee credit shall submit an application to the Administrative Official with the fee prescribed in Article XI of the chapter. The application shall set forth what improvements or actions, not otherwise required by local, state or federal laws or regulations, are proposed and what mobility fee credit is due for those improvements or actions; In reviewing the application, the Administrative Official shall follow the procedures for applications as enumerated in Section 13-301. The Administrative Official shall take action on the application by written development order, and may approve, approve with modifications and/or conditions or deny the application. Where the application for a mobility fee credit is submitted in conjunction with another application under this chapter, the Administrative Official may combine the development order under this subsection with that of the other application. Any appeals of the Administrative Official's decision shall be in accordance with Subsection 13-302(i).

(b) The following table sets forth the improvements or actions eligible for a mobility fee credit, and the amount of such credit:

Improvement or Action	**Type of eligible project**	**Credit available (daily trips)**	**Special requirements**
Bicycle parking spaces on-site	All types of development/uses other than single family and two-family projects. However, bicycle parking spaces developed as part of a single family or two family development as part of common areas may, at the discretion of the Administrative Official, be eligible so long as said bicycle parking spaces are accessible to the general public.	0.5 trips per bicycle parking space not located on a site adjacent to a designated greenway. 1.0 trips per bicycle parking space located on a site adjacent to a designated greenway.	All bicycle parking spaces used for mobility fee credit shall be over and above those otherwise required by the LDC or which are provided as part of another incentive program under the LDC. In order to receive mobility fee credits for bicycle parking spaces, said spaces be must accessible to the general public and so located on the site as to encourage bicycle use, as determined by the Administrative Official.
Mixed-Use Development	Projects that include at least two different general types of land uses (i.e. residential, commercial, office and industrial) wherein no one use category exceeds 75 percent of the total floor area.	Up to ten percent of daily trips, at the discretion of the Administrative Official.	Applicants must demonstrate that the mixed use project is so designed to achieve internal trip capture and encouragement of alternative modes. The percent of daily trips credited shall be based on the level of mitigation of transportation impacts expected due to the mixed use nature of the development, supported by data and analysis submitted by the applicant.
Preferred parking for carpools	Nonresidential development	3 trips for preferred carpool parking space, up to ten percent of daily trips.	Preferred parking for carpools shall be demonstrated to be advantaged over other parking spaces at the facility.
Pedestrian throughways and bicycle facilities.	All	Maximum of three percent of daily trips.	Applicant must demonstrate that the proposed pedestrian throughway will contribute to creating a safe, comfortable and convenient pedestrian and bicycle network in Miami Lakes, or will help to complete a designated greenway. Any such facility

			receiving a mobility fee credit shall be accessible to the general public. One or more easements for public access may be required, at the discretion of the Administrative Official.
Placing parking in the rear	Nonresidential, mixed use and multifamily residential development	Maximum of three percent of daily trips.	The amount of credit given shall be based on the proportion of parking placed in the rear of the building. All parking must be placed in the rear in order to receive the full three percent credit.
Flexible work arrangements and/or staggered work arrangements	Nonresidential development and uses	Up to five percent of daily trips	
Employer provided transit passes	Any property or use, other than single family, two-family and townhouse properties, which has employees on site.	One percent for each pass purchased.	One transit pass shall equal a Miami-Dade County transit pass that will allow an employee to access the site for work for one year. Employers must demonstrate good faith in encouraging use of transit, and making reasonable scheduling accommodation to account for transit schedules.
Developer or employer sponsored transit	Office and industrial development or uses cumulatively accounting for at least 150 employees. More than one employer on a single site or on more than one site that are located within one-quarter mile of a central point may jointly apply to receive this credit.	Up to 3.5 percent of daily trips	The applicant or applicants for developer or employer sponsored transit shall submit a plan to be considered for approval by the Administrative Official.

(c) Mobility fee credits to be received via flexible work arrangements, staggered work schedules, or developer or employer sponsored transit must include, along with the application for mobility fee credits, a detailed plan for how these arrangements will be implemented and, upon approval by the Administrative Official, a declaration of restrictions, in a form acceptable to the Administrative Official and the Town Attorney, shall be executed and recorded by the property owner to ensure continued implementation of the plan.

(d) Failure to implement any plan pursuant to subsection (c) of this section shall be punishable by any lawful means available to the Town, including but not limited to code enforcement proceedings.

Sec. 13-2008. Changes of size and use.

A mobility fee shall be imposed and calculated for the alteration, expansion or replacement of a building or dwelling unit or the construction of an accessory building or structure if the alteration, expansion or replacement of a building or dwelling unit or the construction of an accessory building or structure results in the generation of a greater number of daily trips than the present use as determined in accordance with Section 13-2005. The mobility fee imposed under the applicable mobility fee rate shall be calculated as follows:

(a) In cases of alteration, expansion or replacement of a use and/or structure, the mobility fee shall be calculated based on the increment between daily trips generated by the existing use and/or structure and the daily trips generated by the alteration, expansion or replacement.

(b) If in the interim between permit expiration or invalidation and application for a new permit on the property the amount of the applicable fee has been increased, or the new permit application is for a use different than the previously permitted use and the new use requires a greater fee than the previously permitted use, the applicant shall pay the difference between the amount previously paid and the revised amount prior to permit issuance.

(c) In the event a property which has been previously permitted and the mobility fee paid is subdivided, divided, or split subsequent to permit expiration or invalidation, the Administrative Official shall prorate the fee to apply to each newly created lot, tract or parcel in the relation that the newly created lot, tract, or parcel bears to the original property in terms of its size. Applicants for building permits on each newly created lot, tract, or parcel shall pay the difference between the value of the previously paid fee as prorated and any greater amount due to revision of the fee amount or a change of use. In the case of a subdivision into single family or two-family lots, all lots will be treated equally, regardless of size.

(d) In the event that there is a change in use that results in a decrease in daily trips from that generated by the previously allowed use, the applicant shall not be entitled to a refund or credit.

Sec. 13-2009. Exemptions.

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

(a) Alteration, expansion or replacement of an existing dwelling unit which does not increase the number of families for which such dwelling unit is arranged, designed or intended to accommodate for the purpose of providing living quarters.

(b) The alteration or expansion of a building if the building use upon completion does not generate a greater number of daily trips than prior to the alteration or expansion.

(c) The replacement of a building or the construction of an accessory building or structure if the replacement building or accessory building or structure generates a lower number of daily trips than prior to the building construction.

(d) The issuance of a tie-down permit on a mobile home on which applicable mobility fees have previously been paid.

(e) In cases where uses are changed, with no changes in building square footage or other similar determinant of trip generation, and there is no replacement of all or a portion of a principal building proposed, the mobility fee shall only be due in cases where a public hearing (i.e., for a conditional use, rezoning, comprehensive plan amendment, site plan, etc.) is required in order to issue the certificate of use.

(f) All development or uses that have obtained a building permit or a certificate of use/occupancy for a particular use, existing at the time of the effective date of this division, shall be vested at the previous concurrency fee in existence at the time of adoption of this division.

(g) All development or uses that have received a transportation concurrency determination or determination of vested rights, including but not limited to as part of site plan approval, development agreement or development of regional impact approval, shall be vested under that existing transportation concurrency determination or determination of vested rights, for so long as that transportation concurrency determination or determination of vested rights remains in effect, and subject to any obligations for off-site transportation improvements or other obligations attached to the transportation concurrency determination or the determination of vested rights. However, a property owner with an existing transportation concurrency determination or determination of vested rights may voluntarily, subject to acceptance by the Town, choose to forego that previous determination and instead be subject to this Mobility Fee Ordinance. In such cases, obligations under the existing transportation concurrency determination or determination of vested rights shall be extinguished, and said development project shall be subject to the provisions of this Mobility Fee Ordinance. In such cases, the applicant and/or property shall not be subject to any credit for the mobility fee due as a result of improvements constructed or contributions made under the previous transportation concurrency determination or determination of vested rights.

Sec. 13-2010. Collection of fees.

(a) Except as otherwise provided in this division, prior to the issuance of a building permit for a development project, an applicant shall pay the mobility fee as applicable.

(b) The obligation for payment of the fee shall run with the land.

(c) The payment of the mobility fee shall be in addition to any other fees, charges or assessments of the Town due upon the issuance of a building permit.

(d) In the event the mobility fee is not paid prior to the issuance of a building permit for the affected development project the Town may elect to collect the mobility fee by any other method which is authorized by law.

Sec. 13-2011. Refund of fees paid.

(a) Any funds not expended or encumbered by the end of the calendar quarter immediately following six years from the date a fee was paid, shall, upon written application by the fee payer submitted to the Town within 180 days of notification as hereafter provided, be returned to the fee payer. Failure to submit a timely written application shall result in remittance of the fees paid to the Mobility Fee Trust Fund and the fee payer's claim shall be barred. The Town shall send written notice to the fee payer of eligibility to make application for refund within 60 days of the date the fee becomes eligible for refund. Mailing to the fee payer's address as set forth on the building permit application, and to the address of the property owner on the property for which the fee was paid according to the latest information available from the Miami-Dade County Property Appraiser, shall be deemed sufficient.

(b) The petition for refund shall be submitted to the Administrative Official and shall contain:

(1) A notarized sworn statement that the petitioner is the current owner of the property on behalf of which the mobility fee was paid;

(2) A copy of the dated receipt issued for payment of such fee or such other record as would indicate payment of such fee;

(3) A copy of the latest recorded deed;

(c) Within three months from the date of receipt of a petition for refund, the Administrative Official will advise the owner of the status of the mobility fee requested for refund, and if such mobility fee has not been spent or encumbered within the applicable time period, then it shall be returned to the petitioner. The Town shall retain five percent of the mobility fee to offset the costs of administering the refund. For the purposes of this section, fees collected shall be deemed to be spent or encumbered on the basis of the first fee in, shall be the first fee out.

(d) All mobility fees paid for a building permit which subsequently expires or is otherwise invalidated prior to completion of the permitted land development activity shall be nonrefundable subject to appeal. Any amount paid will be credited toward any future mobility fee due on the same property.

Sec. 13-2012. Developer contribution credit.

(a) Upon mutual agreement by an applicant and the Town, an applicant may choose to undertake off-site improvements to the Town's multimodal mobility network, where said improvements are consistent with the Town of Miami Lakes Comprehensive Plan. Where such off-site improvements are undertaken as part of a development project, a credit may be granted against the mobility fee imposed pursuant to Sec. 13-2005, as applicable, for the conveyance of land or for the construction of any off-site improvements to major road network roads required pursuant to a development order by the Town or voluntarily made in connection with a development project. Such land conveyance, construction and improvement shall be subject to approval by the Administrative Official and the following standards:

(1) The conveyed land shall be an integral part of and a necessary accommodation of the contemplated off-site improvements to the multimodal network;

(2) The off-site improvements to be constructed shall be an integral part of and a necessary accommodation of the contemplated off-site improvements to the multimodal network and shall exclude access improvements, sidewalks and/or bicycle lanes directly adjacent to the development project wherein the Town Code may require their construction, improvement or repair and any roadway improvements directly adjacent to the development site that are necessitated solely for the proper functioning of transportation facilties for the development rather than as part of the larger transportation network; and,

(3) The off-site improvements shall be constructed to the specifications of the governmental agency that has ownership of the road right-of-way, and the specifications of the Town, as determined by the Administrative Official.

(b) The amount of developer contribution credit to be applied to the mobility fee shall be determined according to the following standards of valuation:

(1) The value of conveyed land shall be based upon a written appraisal of fair market value by a qualified and professional appraiser and based upon comparable sales of similar property resulting from an arms-length transaction, if available;

(2) The cost of anticipated construction of off-site improvements shall be based upon cost estimates certified by a professional engineer or registered planner, and such estimate shall be reviewed and approved by the Administrative Official. The Town reserves the right to require the developer to competitively bid in accordance with the Town Code, in which case the credit shall be limited to the actual cost or 100 percent of the lowest responsible bid amount, whichever is less. All bidders shall be qualified to construct the off-site improvements in accordance with the provisions of the Town Code; and

(3) Should the cost of the land conveyance and/or construction of the off-site improvements exceed the mobility fee due from the development project then the credit received by the applicant shall be limited to the mobility fee generated by the development project.

(4) Where applicable, the prevailing standards as adopted in the Alternative to Concurrency Study report take precedence.

(c) Prior to issuance of a building permit, the applicant shall submit to the Administrative Official a proposed plan for the construction or conveyance of off-site improvements to multimodal network. The proposed plan shall include:

(1) A designation of the development project for which the plan is being submitted;

(2) A list of contemplated off-site improvements to the multimodal network;

(3) A legal description of any land proposed to be donated and a written appraisal prepared in conformity with subsection (b)(1) of this section;

(4) An estimate of proposed construction costs based on detailed unit costs that are less than one year old and sealed by a professional engineer; and

(5) A proposed time schedule for completion of the proposed plan.

(d) Upon receipt of the proposed plan, the Administrative Official shall review the application and the proposed plan to determine if it complies with this division. The Administrative Official shall render a decision 30 days following receipt of the proposed plan to grant or deny the credit. Failure to render a decision within the 30 days shall be deemed a denial.

(e) If the request for credit is denied and the applicant wishes to appeal such denial, the appeal shall be in accordance with the procedures in Subsection 13-302(i).

(f) If a proposed plan of conveyance or construction is approved for credit by the Administrative Official or, upon appeal, by the Town Council, the applicant or owner and the Town shall enter into a credit agreement which shall provide for the timing of the action to be taken by the applicant and the obligations and responsibilities of the parties, including but not limited to:

(1) The timing of actions to be taken by the applicant and the obligations and responsibilities of the applicant, including, but not limited to, the construction standards and requirements to be complied with;

(2) The obligations and responsibilities of the Town, including, but not limited to, inspection of the project; and

(3) The amount of the credit as determined in accordance with subsection (b).

(g) All construction cost estimates shall be based upon and all construction plans and specifications shall be in conformity with the road construction standards of the Town, and the road construction standards of any other jurisdiction having responsibility for the right-of-way and shall be approved by the Town Engineer prior to the commencement of construction.

(h) Any applicant who submits a proposed plan pursuant to this section and desires the issuance of a building permit prior to the resolution of a pending credit shall pay the applicable mobility fee prior to or at the time the request for hearing is filed. Said payment shall be deemed paid "under protest" and shall not be construed as a waiver of any review rights. Any difference shall be refunded to the applicant or owner.

(i) Nothing contained herein shall be construed to qualify, for a developer contribution credit under this Section, the conveyance of land which is required as right-of-way or the construction of access improvements.

Sec. 13-2013. Use of mobility fee funds.

(a) The Town Council hereby establishes one separate trust account for the mobility fee, which account shall be accounted for separate and apart from all other accounts of the Town, to ensure that all mobility fee collections and expenditures are properly deposited, accounted for, reported, and appropriated in accordance with this division and any other applicable legal requirements. This mobility fee account shall be administered by the Finance Department, which will be entrusted with the responsibility of fund accounting, receipts, disbursements, and other actions necessary to maintain the mobility fee account.

(b) All mobility fees shall be deposited into this trust account immediately upon receipt. Interest accruing thereto shall be deposited into this account.

(c) The monies deposited into the mobility fee trust account shall be used solely for the purpose of planning, constructing, installing or improving the multimodal network included in the Town's CIE; including, but not limited to:

(1) Design and construction plan preparation;

(2) Permitting;

(3) Right-of-way acquisition, including any costs of acquisition or condemnation;

(4) Construction of new through lanes, bicycle and pedestrian facilities, transit facilities and their amenities, operational improvements and landscape or integral components of such when built concurrent with and part of a construction project;

(5) Construction management and inspection;

(6) Surveying and soils and material testing;

(7) Repayment of monies transferred or borrowed from any budgetary fund of the Town which were used to fund any construction or improvements as herein defined;

(8) Payment of principal and interest, necessary reserves and costs of issuance of any bonds or other indebtedness issued by the Town to provide funds to construct or acquire growth impacted capital transportation improvements on the multimodal network;

(9) Transportation planning, development and engineering;

(10) Sidewalks and bicycle lanes;

(11) Off-road multiuse trail network;

(12) Transit capital equipment;

(13) Transit infrastructure (such as bus shelters, benches and signs);

(14) The implementation or administration of transportation demand management techniques incorporated into the master planning lists;

(15) Street trees, where deemed to be needed to create a pedestrian or bicycle friendly environment; and,

(16) Traffic signalization.

(d) The monies deposited into the Mobility Fee Trust Fund account shall not be used for any expenditure that would be classified as a maintenance or repair expense.

(e) Any monies on deposit which are not immediately necessary for expenditure may be invested by the Town. All income derived from such investments shall be deposited in the Mobility Fee Trust Fund account and used as provided herein.

(f) Each fiscal year the Administrative Official shall present to the Town Council a proposed Capital Improvement Program, which shall assign funds, including any accrued interest, from the Mobility Fee Trust Fund, to specific improvement projects and related expenses. Monies, including any accrued interest, not assigned to any fiscal year, shall be retained in the Mobility Fee Trust Fund until the next fiscal year.

(g) The Town may enter into one or more interlocal agreements to contribute funds collected under this division toward a project being implemented by another public agency, so long as such improvement is not inconsistent with the Town's Comprehensive Plan and where the Town Council finds, by resolution, that this contribution is in the Town's best interests.

(h) The Town may retain up to five percent of all mobility fees received, based on its actual costs, as an administrative fee to defray the costs of administering the mobility fees.

DIVISION 3. – SCHOOL CONCURRENCY

Sec. 13-2014~~03~~. - School Concurrency Program.

EXHIBIT C

Chapter 13 LAND DEVELOPMENT CODE

ARTICLE XI. FEES

* * *

Sec. 13-2102. - Fees for planning and zoning approvals.

Fees and/or cost recovery deposits for planning and zoning approvals are hereby adopted as set forth in the fee schedule for planning and zoning approvals maintained by the Town Clerk. The fee schedule for planning and zoning approvals may be amended from time to time by resolution of the Town Council.

Fee Schedule for Planning and Zoning Approvals[i]

	Development Approval Requested	Application Fee	Deposit

* * *

19.	~~Concurrency~~ Mobility Fee Ordinance		
19.1	~~Exemption~~ Alternative Trip Generation Study (ss. 13-2005(b)(2))	~~$750.00~~ Cost recovery	$1,500
19.2	~~Determination (without traffic impact analysis)~~ Application for mobility fee credits (Sec. 13-2007)	~~$750.00~~ $250.00	
~~19.3~~	~~Determination (with traffic impact analysis)~~	~~Cost recovery~~	~~$1,500.00~~
~~19.4~~	~~Reservation~~	~~Cost recovery~~	~~$5,000.00~~
~~19.5~~	~~Proportionate fair share (including agreement)~~	~~Cost recovery~~	~~$5,000.00~~