

**ORDINANCE NO. 20- \_\_\_\_\_**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, RELATING TO MOBILITY FEES; AMENDING CHAPTER 13, “LAND DEVELOPMENT CODE”, AT ARTICLE X, “CONCURRENCY REGULATIONS AND MITIGATION OF DEVELOPMENT IMPACTS”, DIVISION 2, “MOBILITY FEE”; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION INTO THE 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**, on April 25, 2016 the Town Council adopted a mobility fee ordinance as an alternative to traffic concurrency 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**, on February 2019 the Town Council approved a new business item instructing staff to assess the performance of the mobility fee since adoption, commission a study to establish new rates, and recommend any changes in language that may improve processes.

**WHEREAS**, on December 3, 2019, the Planning and Zoning Board, acting in its capacity as the Local Planning Agency, heard the item at a duly noticed public hearing and forwarded a recommendation of approval to the Miami Lakes Town Council; and

**WHEREAS**, on December 10, 2019, the Town Council at a duly noticed public hearing, moved the item on First Reading; and

**WHEREAS**, on January 21, 2020, the Town Council considered the ordinance at a duly advertised public hearing; and

**WHEREAS**, to that end, the Town Council of the Town of Miami Lakes hereby finds and declares that adoption of this Ordinance is appropriate and advances the public interest.

**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.<sup>1</sup>

**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.

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<sup>1</sup> Additions to the text are shown in underline and deletions from the text are shown in ~~striketrough~~.

**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 Manny Cid  
Vice Mayor Nelson Rodriguez  
Councilmember Carlos O. Alvarez  
Councilmember Luis Collazo  
Councilmember Joshua Dieguez  
Councilmember Jeffrey Rodriguez  
Councilmember Marilyn Ruano

Passed on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

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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 Manny Cid	_____
Vice Mayor Nelson Rodriguez	_____
Councilmember Carlos O. Alvarez	_____
Councilmember Luis Collazo	_____
Councilmember Joshua Dieguez	_____
Councilmember Jeffrey Rodriguez	_____
Councilmember Marilyn Ruano	_____

Passed and adopted on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Manny Cid  
MAYOR

Attest:

\_\_\_\_\_  
Gina Inguanzo  
TOWN CLERK

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Raul Gastesi, Jr.  
Gastesi & Associates, P.A.  
TOWN ATTORNEY

# EXHIBIT A

## ARTICLE X. - CONCURRENCY REGULATIONS AND MITIGATION OF DEVELOPMENT IMPACTS

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### DIVISION 2. - MOBILITY FEE

\* \* \* \*

#### 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 or for a full calendar year, whichever comes first, 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, either administrative or granted by the State of Florida, the mobility fee due shall be reevaluated as part of the extension application 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.

(Ord. No. 16-192, § 2, 4-25-2016)

#### 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 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), 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 development project's net daily person-trip shall be calculated by multiplying the number of units of the proposed use by the amount shown in the following Flat Trip Chart, and thereafter, multiply the result by the mean auto occupancy of trips generated by that land use, determined according to Subsection (b)(2):

<u>Residential --- Single Family and Town home (per unit)</u>	<u>9.44</u>
<u>Residential --- Multifamily (per unit)</u>	<u>7.32</u>
<u>Commercial --- Retail (per 1,000 sf or portion thereof)</u>	<u>61.64</u>
<u>Commercial --- Restaurant full service (per 1,000 sf or portion thereof)</u>	<u>112.18</u>
<u>Commercial --- Restaurant fast food (per 1,000 sf or portion thereof)</u>	<u>470.95</u>
<u>Office --- General (per 1,000 sf or portion thereof)</u>	<u>9.74</u>
<u>Office --- Medical (per 1,000 sf or portion thereof)</u>	<u>34.80</u>
<u>Industrial (per 1,000 sf or portion thereof)</u>	<u>1.94</u>

~~(4)~~(2) The greater of either the weekday or weekend trip generation rate of the land use(s) proposed in the development project, minus the pass-by rate, as calculated, signed and sealed by a duly licensed traffic engineer and 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). 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)~~(3) 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 the mean auto occupancy by land use by resolution.

~~(3)~~(4) Alternative trip generation study.

- a. In the event an applicant reasonably believes that the daily trip generation pursuant to Subsection (b)(1) 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 the sum of 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).

(Ord. No. 16-192, § 2, 4-25-2016)

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Sec. 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.

- (1) 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).
- (2) 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 <u>two-family</u> 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.	One-half trips [trip] per bicycle parking space not located on a site adjacent to a designated greenway. One trips [trip] 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	Three trips for preferred carpool parking space, up to ten percent of daily trips.	<del>Preferred parking for carpools shall be demonstrated to be advantaged over other parking spaces at the facility.</del>
Pedestrian thoroughways and bicycle facilities.	All	Maximum of three percent of daily trips.	Applicant must demonstrate that the proposed pedestrian thoroughway 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.
<del>Flexible work arrangements and/or staggered work arrangements</del>	Nonresidential development and uses	Up to five percent of daily trips	
Employer provided	<del>Any property or use, other than single family, two-family</del>	One percent for each	<del>One transit pass shall equal a Miami-Dade County transit</del>

<del>transit passes</del>	<del>and townhouse properties, which has employees on site.</del>	<del>pass purchased.</del>	<del>pass that will allow an employee to access the site for work for one year.</del> <del>Employers must demonstrate good faith in encouraging use of transit, and making reasonable scheduling accommodation to account for transit schedules.</del>
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 three and one-half 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.
<u>Dollar-for-Dollar contribution</u>	<u>All projects</u>	<u>At the sole discretion of the Town, an applicant may elect to construct, pay for, or contribute, a qualified capital improvement or right-of-way contribution to a mobility facility in the mobility network in order to satisfy its mobility fee obligation on a dollar-for-dollar basis against the value of said contributed, qualified capital improvement</u>	<u>Qualified capital improvements will include technology improvements that the Town has identified, adopted, and prioritized as part of its strategic planning</u>

- (3) ~~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.~~

- ~~(4)~~ (3) Failure to implement construct or maintain any plan or facility pursuant to Subsection ~~(3-2)~~ shall be punishable by any lawful means available to the Town, including but not limited to code enforcement proceedings. In addition, any trips previously credited will be due and payable as a mobility fee at the rate in place at the time of failure or removal of facilities that generated the credit.

(Ord. No. 16-192, § 2, 4-25-2016)