



36           **WHEREAS**, the mobility fee system includes, but is not limited to, considerations of the  
37 impact of person miles of travel generated by new development on multi-modal capacity as well  
38 as considerations of the impact of new development on overall mobility within the community;  
39 and

40           **WHEREAS**, the City of Maitland is experiencing growth and new development that  
41 necessitates the expansion of transportation facilities for a variety of modes to meet the demands  
42 of new development and redevelopment including adequate and efficient multi-modal facilities  
43 along with different mobility options; and

44           **WHEREAS**, imposition of a mobility fee requiring future growth to contribute its fair  
45 share of the cost of growth-necessitated multi-modal facilities is necessary and reasonably  
46 related to the public health, safety, and welfare of the people of the City; provided that the  
47 mobility fee does not exceed the actual amount necessary to offset the demand on transportation  
48 facilities generated by new development; and

49           **WHEREAS**, Section 163.3180, Florida Statutes, encourages local governments to  
50 develop tools and techniques including adoption of long-term strategies to facilitate development  
51 patterns that support multi-modal solutions, adoption of an area wide level of service not  
52 dependent on any single road segment function, and establishing multi-modal level of service  
53 standards that rely primarily on non-vehicular modes of transportation where existing or planned  
54 community design will provide adequate level of mobility; and

55           **WHEREAS**, Section 163.3180, Florida Statutes, further encourages local governments  
56 to adopt an alternative mobility funding system; and

57           **WHEREAS**, the City of Maitland 2030 Comprehensive Development Plan, in its  
58 transportation element sets out goals to develop and maintain a safe, convenient, efficient  
59 transportation system which: recognizes present need, reflects the Future Land Use Plan, and  
60 provides for safe, efficient intermodal transportation linkages,; and

61           **WHEREAS**, the City Council finds that this ordinance supports and furthers Goal 2 of  
62 the transportation element of the Comprehensive Plan which states, “[t]he City shall meet  
63 existing and future transportation needs through a comprehensive, sustainable, effective and  
64 energy efficient multi-modal transportation system and mobility plan that provides multi-modal  
65 travel options to achieve the City’s mobility goal;” and

66           **WHEREAS**, the City Council finds that this ordinance furthers Policy 2.1.1.b which  
67 states, “[w]hen the City adopts a mobility plan, it may elect to replace existing  
68 transportation/road impact fees, proportionate share, proportionate fair-share and fair-share  
69 programs, the 2009 TCEA, the citywide TCEA or transportation concurrency with the Mobility  
70 Plan and Mobility Fees;” and

71           **WHEREAS**, the mobility fees imposed hereby (1) are in compliance with the "dual  
72 rational nexus test" developed under Florida case law, (2) meet the "essential nexus" and "rough  
73 proportionality" requirements established by the United States Supreme Court, in *Nollan v.*  
74 *California Coastal Commission*, 483 U.S. 825 (1987) and *Dolan v. City of Tigard*, 512 U.S. 374  
75 (1994), (3) are consistent with the requirements set forth in Section 163.3180, Florida Statutes,  
76 and (4) are consistent with and being imposed in accordance with Section 163.31801, Florida  
77 Statutes; and

78           **WHEREAS**, the City Council has determined that the proposed Ordinance adopting a  
79 mobility fee will help to preserve and enhance the rational nexus between the need for multi-  
80 modal travel demands generated by new development in the City of Maitland and the mobility  
81 fees imposed on that development; and

82           **WHEREAS**, establishment of a city-wide mobility fee benefit district to regulate  
83 mobility fee expenditures is the best method of ensuring that the multi-modal facilities funded by  
84 mobility fees have the rational nexus and benefit to the development for which the mobility fees  
85 were paid; and

86           **WHEREAS**, mobility fees collected will be deposited in the mobility fee fund for the  
87 city-wide mobility fee benefit district and expended for the purposes set forth herein; and

88           **WHEREAS**, mobility fees imposed hereunder achieve the goals, objectives and policies  
89 of the 2030 Comprehensive Development Plan and utilize the tools and techniques encouraged  
90 by Section 163.3180, Florida Statutes; and

91           **WHEREAS**, the City of Maitland developed a mobility fee technical report prepared by  
92 NUE Urban Concepts, LLC dated July 2016 that provided the technical analysis to determine the  
93 mobility fee and constitutes a proper factual predicate for imposition and expenditure of the  
94 mobility fees; and

95           **WHEREAS**, the City Council has determined that the proposed Ordinance adopting a  
96 mobility fee will help to preserve and enhance the rational nexus between the need for multi-  
97 modal travel demands generated by new development in the City and the mobility fees imposed  
98 on that development; and

99           **WHEREAS**, the City Council has determined, based upon project development time  
100 frames which are often delayed depending upon economic realities, to authorize the refund of  
101 collected mobility fees after ten (10) years; and

102           **WHEREAS**, the City Council has included a provision providing for credit for prior  
103 payments for a specific project for city transportation impact fees related to transportation  
104 concurrency; and

105           **WHEREAS**, the City Council has determined that it is in the best interests of the City of  
106 Maitland to replace its road impact fee system and proportionate fair-share program for  
107 transportation facilities with a mobility fee system; and

108           **WHEREAS**, the mobility fee is replacing the road impact fee system and development  
109 assessed a mobility fee shall not be assessed a road impact fee; and

110           **WHEREAS**, the City Council has noticed, advertised, scheduled and held a public  
111 hearing in compliance with Florida Statutes on this proposed Ordinance; and

112           **WHEREAS**, the City Council has determined that it is advisable and in the public  
113 interest to adopt and implement the proposed Mobility Fee Ordinance.

114 **LEGISLATIVE UNDERSCORING:** Underlined words constitute additions to the City of  
115 Maitland Code of Ordinances, ~~strike through~~ constitutes deletions from the original, and asterisks  
116 (\*\*\*) indicate an omission from the existing text which is intended to remain unchanged.

117  
118           **NOW THEREFORE BE IT ENACTED by the City Council of the City of Maitland,**  
119 **Florida the following:**

120  
121           **SECTION 1. Recitals Adopted.** The foregoing “WHEREAS” clauses are hereby  
122 ratified and confirmed as being true and correct and are hereby made a specific part of this  
123 Ordinance upon adoption hereof.

124           **SECTION 2.** Chapter 12, Article IV – Road Impact Fees, of the City of Maitland Code  
125 of Ordinances, is hereby vacated and deleted in its entirety as of the effective date of the  
126 Mobility Fee Ordinance per Section 12-104. The provisions to be vacated and deleted are  
127 attached as Exhibit “A.”

128  
129           **SECTION 3.** Chapter 12, Article V – Proportionate Fair-Share Program for  
130 Transportation Facilities, of the City of Maitland Code of Ordinances, is hereby vacated and  
131 deleted in its entirety as of the effective date of the Mobility Fee Ordinance per Section 12-104.  
132 The provisions to be vacated and deleted are attached as Exhibit “B.”

133  
134           **SECTION 4.** Chapter 12, Article VI of the City of Maitland Code of Ordinances, is  
135 hereby created as follows:

136 **ARTICLE VI. – MOBILITY FEES**

137 **Sec. 12-100. - Authority.**

138 (a) This Article shall be known and may be cited as the “City of Maitland Mobility Fee  
139 Ordinance.”

- 140 (b) The City Council has the authority to adopt this article pursuant to Article VIII of the 1968  
141 Florida Constitution, and Chapters 163 and 166 of the Florida Statutes, and the Charter of  
142 the City of Maitland.
- 143 (c) Planning for new multi-modal facility improvements needed to serve new growth and  
144 development that generate the need for additional improvements and the implementation of  
145 these plans through the comprehensive planning process, is a responsibility of the city under  
146 Section 163.3161 et seq., Florida Statutes, and is in the best interest of the health, safety and  
147 welfare of the citizens of the city.

148 **Sec. 12-101. - Intent and purpose.**

- 149 (a) This article is intended to impose a mobility fee, payable prior to issuance of a building  
150 permit, in an amount based upon the average amount of new person miles of travel  
151 attributable to new development and the average cost of providing the multimodal capacity  
152 needed to serve such new travel. This article shall not be construed to authorize imposition  
153 of fees related to multimodal improvement needs attributable to existing development.
- 154 (b) This article is intended to allow new development in compliance with the Comprehensive  
155 Development Plan to share in the burdens of growth. New development shares in this burden  
156 by paying a pro rata share of the reasonably anticipated costs of multimodal facilities needed  
157 to accommodate the person miles of travel demands created by new development as well as  
158 by complying with other appropriate development approval conditions. This article is  
159 intended to provide flexibility to address the needs of individual developments that, because  
160 of location, timing, or other characteristics, require different treatment in the form of  
161 reduced fees or supplemental requirements.
- 162 (c) Towards this end, the mobility fees are replacing road impact fees adopted pursuant to  
163 Ordinance No. 764, as amended, and are based upon the calculation methodology  
164 incorporated in the “City of Maitland Mobility Fee Technical Report” prepared by NUE  
165 Urban Concepts, LLC dated July 2016.

167 **Sec. 12-102. – Definitions.**

168 The following terms used in this article shall be defined as follows:

169 “Applicant” is the property owner, or duly designated agent of the property owner, of land  
170 on which a Building Permit or Special Use Permit is requested and a mobility fee is due pursuant  
171 to this article.

172 “Autonomous vehicle” is a motor vehicle that uses artificial intelligence, sensors and global  
173 positioning system coordinates to drive itself with or without the active intervention of a human  
174 operator.”

175 “Bicycle sharing” means short term bicycle rental available at unattended stations. A  
176 bicycle-sharing system, public bicycle system, or bike-share program, is a short term bicycle  
177 rental service in which bicycles are made available for shared use to individuals on a very short  
178 term basis. Bike share systems allow people to rent a bicycle at any self-serve bike-station and  
179 return it to any other bike station located within the system's service area.

180 “Building permit” is an official document or certificate issued by the city authorizing the  
181 commencement of construction of any structure or portion of a structure pursuant to the City of  
182 Maitland Zoning Ordinance, as amended, and the Land Development Regulations of the City of  
183 Maitland.

184 “Capital expenses” are defined as the expenditures for multi-modal improvements and  
185 associated stormwater management areas: (a) the repayment of principal and interest or any  
186 redemption premium for loans, advances, bonds, bond anticipation notes, and any other form of  
187 indebtedness then outstanding; (b) reasonable administrative and overhead expenses necessary or  
188 incidental to expanding and improving the transportation facilities; (c) expenses of planning,  
189 corridor and alternatives analysis, route studies and pond siting analysis reports, soil borings,  
190 tests, surveys, construction plans, and legal and other professional advice or financial analysis  
191 relating to transportation facilities, including the reimbursement of the city for such expenses  
192 incurred before the transportation facilities were approved and adopted into the capital  
193 improvement plan; (d) the acquisition of right-of-way and easements for the transportation  
194 facilities, including the costs incurred in connection with the exercise of eminent domain; (e) the  
195 clearance and preparation of any transportation facility site, including the demolition of  
196 structures on the site and relocation of utilities; (f) floodplain compensation and wetland  
197 mitigation; (g) all expenses incidental to or connected with the issuance, sale, redemption,  
198 retirement, or purchase of bonds, bond anticipation notes, or other forms of indebtedness,  
199 including funding of any reserve, redemption, or other fund or account provided for in the  
200 ordinance or resolution authorizing such bonds, notes, or other form of indebtedness; and (h)  
201 costs of design and construction, including mobilization, maintenance of traffic during  
202 construction and CEI (construction engineering and inspection) services.

203 “Capital improvement element” is the element of the City of Maitland's Comprehensive  
204 Development Plan, as amended annually by the Capital Improvements Program (CIP) which  
205 evaluates the need for public facilities as identified in the comprehensive development plan  
206 elements and as defined in the applicable definition of each public facility, estimates the cost of  
207 improvements, analyzes the fiscal capability of the local government to finance and construct  
208 improvements, adopts financial policies to guide the funding of improvements, and schedules the  
209 funding and construction of improvements in a manner necessary to ensure that capital  
210 improvements are provided when required based on the needs identified in the Comprehensive  
211 Development Plan.

212 “Car sharing” Car-sharing is defined as the organized collective use of a dispersed network  
213 of shared vehicles available 24-hours, 7 days a week at unattended self-service locations through  
214 a membership based service and is available to all qualified drivers in a community with no  
215 separate written agreement required each time a member reserves and uses a vehicle.

216 “Certificate of occupancy” means a Certificate of Occupancy issued by the City Building  
217 Department pursuant to the City building code. If no Certificate of Occupancy is required for the  
218 construction or occupation of a structure then the term shall be deemed to include a Special Use  
219 Permit, Occupancy Permit or other form of final City approval, for the construction, installation  
220 or occupancy of a structure.

221 “City” is hereby defined as the City of Maitland, Florida.

222 “City Council” means the legislative body of the City of Maitland.

223 “Commercial uses” means those business, retail, service or professional activities which  
224 provide products and services to individuals, businesses, or groups and which include those uses  
225 specified in the ITE Trip Generation Manual under Land Use Code Series 800 and 900.

226 “Community retail” shall mean individual freestanding retail uses outside of a retail center  
227 or a retail center that are between 10,001 square feet and 100,000 square feet in size and are not  
228 otherwise specifically included as a separate and distinct land use in the Mobility Fee Schedule.

229 “Complete Streets” means a transportation policy and design approach that requires multi-  
230 modal transportation improvements to be planned, designed, operated, and maintained to enable  
231 safe, convenient and comfortable travel and access for users of all ages and abilities regardless of  
232 their mode of transportation and to allow for safe travel by those walking, bicycling or using  
233 other forms of non-motorized travel, riding public transportation or driving motor vehicles or  
234 low speed electric vehicles. Separate and defined spaces are provided for the various modes of  
235 travel planned within the cross-section.

236 “Comprehensive Development Plan” (CDP) is defined as the City of Maitland's 2030  
237 Comprehensive Development Plan addressing the planning period 2010-2030, updated  
238 September 27<sup>th</sup>, 2010 adopted, as periodically amended in accordance and consistent with state  
239 statutes.

240 “Convenience Market & Gas” means any use which sells fuel to the public or through a  
241 membership club and includes land uses with fuel pumps such as, but not limited to, gas station,  
242 service station or convenience market. Fuel positions are the total number of motor vehicles that  
243 can fuel at one time, with a standard fuel pump typically having two fuel positions. An attached  
244 restaurant with drive-thru shall be assessed a separate mobility fee per the Mobility Fee  
245 Schedule.

246 “County” means the Orange County Government

247 “Design guidelines/standards” are the City of Maitland's current Code requirements and any  
248 other area specific land development regulations, pattern books or guidelines enacted by the City  
249 by ordinance that are applicable to the subject development.

250 “Developer” is an individual, agency, or group that submits a development application to the  
251 City of Maitland or enters into discussion or negotiation with the City of Maitland regarding  
252 potential development within the City limits.

253 “Development” is any construction, reconstruction or any use of real property which  
254 requires review and approval of a development permit.

255 “Development Agreement” is an enforceable agreement entered into between the City of  
256 Maitland and a developer in which specific development terms, conditions, obligations are  
257 defined and agreed upon, including agreements entered pursuant to the City's home rule powers  
258 under the Florida Constitution and Chapter 166, Florida Statutes, an agreement entered pursuant  
259 to Sections 163.3220—163.3243, or an agreement or Development Order issued pursuant to  
260 Chapter 380, Florida Statutes.

261 “Development order” is any order granting, with or without conditions, or denying, a  
262 development permit including any building permit, zoning permit, rezoning, subdivision  
263 approval, site plan approval, permitted conditional use, certification, variance or any official

264 action of the City having the effect of permitting any type, level, nature, density, intensity, or  
265 other form of development of land.

266 “Dwelling unit” means a room or rooms connected together, constituting a separate,  
267 independent housekeeping entity, for owner occupancy or rental or lease on a daily, weekly,  
268 monthly, or longer basis, and physically separated from any other rooms or Dwelling Units  
269 which may be in the same structure and containing sleeping and sanitary facilities and one  
270 kitchen. The term "Dwelling Unit," as used in this Ordinance, shall be deemed to include mobile  
271 home dwellings, and Assisted Living Facilities where mobility fees are based on the number of  
272 beds.

273 “FDOT” means the State of Florida Department of Transportation.

274 “FHWA” means the Federal Highway Administration, a division of the US DOT.

275 “Gross Floor Area” shall mean the sum (in square feet) of the area of each floor level,  
276 including cellars, basements, mezzanines, penthouses, corridors, lobbies, stores, and offices, that  
277 are within the principal outside faces of exterior walls, not including architectural setbacks or  
278 projections. Included are all areas that have floor surfaces with clear standing head room (six feet  
279 six inches, minimum) regardless of their use. If a ground level area, or part thereof, within or  
280 adjacent to the principal outside faces of the exterior walls is not enclosed and is determined to  
281 be a part of the Principal Use, such as outdoor seating, display or storage, this GFA is considered  
282 part of the overall square footage of the building. Unroofed areas and unenclosed roofed-over  
283 spaces which are considered accessory and do not create a demand to the Principal Use should be  
284 excluded from the area calculations. For purposes of this article, the GFA of any parking garages  
285 within the building shall be excluded from the GFA of the entire building.

286 “Impact fee” is the payment of money for a proportional share of the cost of transportation  
287 facilities needed to serve new growth and development as formerly authorized by the City of  
288 Maitland, Part II, Chapter 12, Article IV. Road Impact Fees.

289 “Impact generating land development activity” is land development designed or intended to  
290 permit a use of the land which will contain more dwelling units and/or increase in gross floor  
291 area of non-residential uses than the then existing use of the land in a manner that increases the  
292 generation of person trips and person miles of travel demand.

293 “Independent mobility fee study” means a study conducted by an entity other than the City,  
294 to calculate the mobility fee for a particular development. The Study must be based upon a  
295 methodology approved by the City and conducted to professionally acceptable standards by an  
296 individual with documented experience with conducting such studies or developing Mobility Fee  
297 and Transportation Impact Fee experience.

298 “Industrial uses” shall mean those activities which are predominantly engaged in the  
299 assembly, finishing, processing, packaging and/or storage of products and which include those  
300 uses specified in the ITE Trip Generation Manual under Land Use Code Series 000 and 100, but  
301 excluding mini-warehouses.

302 “Institutional uses” mean those activities which are predominantly engaged in education,  
303 religious observation, and cultural activities or oversight of persons outside and which include  
304 those uses specified in the ITE Trip Generation Manual under Land Use Code Series 500.

305 “ITE trip generation manual” shall mean and refer to the latest edition of the report entitled  
306 “Trip Generation” produced by the Institute of Transportation Engineers (ITE).

307 “Level of service” is a standard used to determine the capacity of multi-modal facilities  
308 based on the sources referenced in the mobility fee study.

309 “Living Area” shall mean the sum of the area (in square feet) of each floor of the Dwelling  
310 Unit, measured from the exterior surface of the exterior walls or walls adjoining public spaces  
311 such as apartment hallways, or the centerline of common walls shared with other Dwelling Units.  
312 This square footage does not include garages or unenclosed areas.

313 “Living Streets” means a multi-modal transportation facilities based on the Dutch Woonerf  
314 concept that treats all modes equally with no defined spaces for any mode. Living Streets  
315 typically do not have curbs, pavement markings, traffic control devices, parking spaces, speed  
316 limit signs or have posted speed limits 15 MPH or less.

317 “Mobility fee administrator” shall mean the City of Maitland official responsible for  
318 administration, implementation and interpretation of all mobility fee ordinances, policies and  
319 manuals. The City Engineer shall be responsible for administration of the mobility fee  
320 ordinances. The City Engineer shall obtain approval in writing from the City Manager for any  
321 decisions under sections 12-105 thru 12-111 before those decisions can become effective. The  
322 City Council may elect to designate an individual other than the City Engineer as the Mobility  
323 Fee administrator.

324 “Mobility fee” means the fee assessed at the time of issuance of a Building Permit or  
325 Special Use Permit on a proportional basis associated with the average demand for mobility  
326 facilities created by the Development of a Principal Use to provide funds for multi-modal  
327 facilities needed to address demand generated by new development.

328 “Mobility fee benefit district” means all areas within the geographic extents of the City  
329 established pursuant to section 12-112 hereof for the purposes of collecting and expending  
330 mobility fees.

331 “Mobility fee technical report” means the City of Maitland Mobility Fee Technical Report  
332 dated July 2016 and prepared by NUE Urban Concepts, LLC and adopted pursuant to Section  
333 12-103 hereof and which supports the imposition of the mobility fee.

334 “Mobility plan” means the Mobility Plan adopted into the City of Maitland 2030  
335 Comprehensive Development Plan which serves as the basis for a Mobility Fee.

336 “Multifamily apartment” shall mean a building containing two or more Dwelling Units that  
337 are not individually owned, are for rent or lease and often have common utility meters and  
338 includes duplexes, triplexes, quadraplexes, garden style apartments and multi-story structures  
339 with multiple dwelling units.

340 “Multi-modal” means multiple modes of travel including, but not limited to, walking,  
341 bicycling, jogging, rollerblading, kayaking, riding transit, driving a golf cart, low speed electric  
342 vehicle or motor vehicle.

343 “Multi-modal facility” means capital facilities necessary or convenient for the movement of  
344 people from one location to another and includes, but is not limited to: capital infrastructure such  
345 as sidewalks, trails, paths, bike lanes, paved shoulders, cycle tracks, transit stops, park and ride

346 lots, parking garages, transit vehicles, car, bicycle and ridesharing programs, transit pull-outs,  
347 way-finishing signs, streetscape, bicycle racks, shelters/kiosks, benches, docks, bicycle stations,  
348 cross-walks, round-a-bouts, vehicular travel lanes, turn-lanes, bridges, curbs, gutters, medians  
349 and/or shoulders, drainage facilities and/or mitigation areas, signage, advanced traffic  
350 management systems and/or traffic control devices.

351 “Multipurpose Recreational Facility” is an indoor and/or outdoor entertainment venue  
352 where impact is measured by the total acreage of the area used to carry out the principal function  
353 of the facility and includes uses such as, but not limited to: bowling, skating, go-carts, mini-golf,  
354 batting cages, bounce houses, trampolines, dance, gymnastics, climbing walls and driving  
355 ranges, and uses not otherwise specified in the Mobility Fee Schedule.

356 “Neighborhood retail” shall mean any individual freestanding retail uses outside of a retail  
357 center or a retail center that is less than 10,000 square feet in size and are not otherwise  
358 specifically included as a separate and distinct land use in the Mobility Fee Schedule.

359 “Non-Residential uses” means the carrying out of industrial, entertainment, lodging,  
360 recreational, institutional, office, medical, commercial or service activity and which include  
361 those uses specified in the ITE Trip Generation Manual under Land Use Code Series 000, 100,  
362 300, 400, 500, 600, 700, 800, and 900 and excludes all uses under ITE Trip Generation Manual  
363 under Land Use Code Series 200.

364 “Office use” means the carrying out of a professional or governmental service that does not  
365 result in the production, manufacturing or sale of a physical object on premise and which include  
366 those uses specified in the ITE Trip Generation Manual under Land Use Code Series 700, except  
367 for medical and dental offices.

368 “Person mile of travel” (PMT) means the number of miles traveled by each person on a trip  
369 in order to account for all miles traveled by motor vehicle, transit, walking and/or bicycling.

370 “Person Trip” means a trip by one person by one or more modes of travel including, but not  
371 limited to, driving a motor vehicle or low speed electric vehicle, riding transit, walking, bicycling  
372 or paddling.

373 “Principal use” means the carrying out of any building activity or the making of any  
374 material change in the use of a structure or land that requires the issuance of a Building Permit or  
375 Special Use Permit and which generates person trips and person miles of travel over and above  
376 the existing use of the structure or land.

377 “Recreation uses” mean those activities which are predominantly engaged in physical  
378 activities, recreation, sports, outdoor activities, entertainment and which include those uses  
379 specified in the ITE Trip Generation Manual under Land Use Code Series 400.

380 “Regional retail” shall mean any individual freestanding retail use outside of a retail center  
381 or a retail center that is greater than 100,000 square feet in size and are not otherwise specifically  
382 included as a separate and distinct land use in the Mobility Fee Schedule.

383 “Restaurant with Drive-Thru” means a free standing, out parcel or inline retail center  
384 restaurant establishment that prepares and serves any food or drink for consumption on or off  
385 premise that has one or more drive-thru lanes, pick-up window accessible by motor vehicle or  
386 any drive-in facilities or drive-up facilities where orders are placed while in a motor vehicle.

387 “Residential use” means a Dwelling Unit or Dwelling Units and shall include those uses  
388 specified in the ITE Trip Generation Manual under the Land Use Code Series 200.

389 “Ride sharing” is where than more than one person rides primarily with unrelated persons  
390 using carpools, vanpools and/or a real-time, on-demand ride sharing service, also known as  
391 ridesourcing, accessed through a smartphone application or through an online portal where one-  
392 time shared rides are provided on short notice by private motor vehicles.

393 “Right-of-way” means land, property, or interest therein, that is necessary to accommodate  
394 all of the required elements for and to support the construction and/or improvement of multi-  
395 modal transportation facilities.

396 “Single-Family Detached” is a structure that is located on its own lot, does not share an  
397 exterior wall with another building and contains only one Dwelling Unit.

398 “Single-Family Attached” includes townhomes, urban flats, villas or condos that are owner  
399 occupied or individually owned and share a wall with one or more dwelling units.

400 “Streetscape” includes hardscape elements such as pavers, benches, lighting, trash and  
401 recycling receptacles, fountains, seating, shade structure, landscape elements such as canopy and  
402 understory trees, shrubs, bushes, grasses and flowers, green infrastructure and architectural  
403 structures and projections that provide shade and protection from various weather conditions.

404 “Transportation operation and maintenance expenses” means expenses associated with the  
405 operation and maintenance of transportation facilities, including cleaning, repairs, mowing,  
406 landscape maintenance, resurfacing that does not expand transportation capacity, and fuel and  
407 salary costs for the operation of transit systems.

408 “Sit Down Restaurant” means a free standing or out parcel restaurant establishment that  
409 prepares and serves food primarily for consumption on premise that does not have drive-thru or  
410 drive-in facilities.

411 “Vehicle miles of travel” means a unit to measure vehicle travel made by a private motor  
412 vehicle, such as an automobile, van, pickup truck, or motorcycle where each mile traveled is  
413 counted as one vehicle mile regardless of the number of persons in the vehicle.

414

415 **Sec. 12-103. – Adoption of Mobility Fee Technical Report.**

416 The mobility fee technical report entitled "City of Maitland Mobility Fee Technical Report –  
417 July, 2016," prepared by NUE Urban Concepts, LLC, is hereby adopted. This adoption includes,  
418 but is not limited to: the basis of the assumptions, conclusions and findings in such study as to  
419 the basis of the mobility fee, the methodology for calculating the mobility fee, the person miles  
420 of travel assigned to various land use categories, as well as the findings for internal and  
421 community capture for the Community Redevelopment Area and Tiers 1 and 2 Assessment  
422 Areas and the basis for the mobility fee benefit district boundary. The study presents the  
423 technical analysis and detailed methodology supporting the City of Maitland Mobility Fees  
424 consistent with the Comprehensive Development Plan 2030. The study shall be maintained and  
425 made available by the City upon request.

426

427 **Sec. 12-104. – Mobility Fee Imposition.**

428 The mobility fee imposed by this Article shall apply to new applications for building permits  
429 and special use permit applications for a change in use submitted on or after January 1<sup>st</sup>, 2017.

430 (a) This Ordinance shall not be imposed on building permits otherwise necessary for:

431 (1) Room additions, remodeling, rehabilitation or other improvements to an existing  
432 structure, provided there is no increase in person trips or person miles of travel and no  
433 increase in Gross Floor Area for non-residential uses and no increase in the number of  
434 Dwelling Units for Residential Uses; or

435 (2) Rebuilding of a damaged or destroyed structure, whether voluntary or involuntary,  
436 provided there is no increase in the intensity of use or no increase in Gross Floor Area for  
437 non-residential uses and no increase in the number of Dwelling Units for Residential  
438 Uses; or

439 (3) A change in occupancy that does not generate additional person trips or person miles of  
440 travel or any increase in Gross Floor Area for non-residential uses or increase in the  
441 number of Dwelling Units for Residential Uses.

442 (4) Accessory buildings that do not result in an increase in person trips or person miles of  
443 travel will be exempt from the fee (e.g. detached garage, sheds, parking structures,  
444 covered parking).

445 (b) There is hereby imposed upon all impact generating land development activity as herein  
446 defined a mobility fee due at the time of issuance of a building permit or special use permit,  
447 and no building permit or special use permit shall be issued until said mobility fee shall have  
448 been paid except as otherwise herein provided. Mobility fees are assessed at the mobility fee  
449 rate in effect at the time the building permit is issued. If the building permit is for less than  
450 the entire contemplated development, the fee shall be computed for the amount of  
451 development covered by the permit. The obligations for payment of mobility fees shall run  
452 with the land.

453 (c) Any developer, who, prior to the effective date for mobility fees, paid City road impact fees  
454 shall have those amounts applied to the balance due for the current mobility fee for a not  
455 previously issued building permit.

456 (d) Additionally, the mobility fee will be imposed for any structure that is altered, expanded or  
457 replaced that results in an increase in person trips and person miles of travel over the existing  
458 land use.

459 (e) The mobility fee is calculated on the basis of the person miles of travel generated from the  
460 land use. If the PMT increases due to a change in size or use, the fee due shall be the  
461 incremental difference resulting from the alteration, expansion or replacement as determined  
462 by the Mobility Fee Schedule, less the fee that would be imposed under the applicable rate  
463 prior to the alteration, expansion or replacement.

464 (f) In the event that there is a change in use that results in a decrease in person miles of travel  
465 generated by the previously allowed use, the applicant shall not be entitled to a refund or  
466 credit.

467 (g) Any person who shall initiate any new impact generating land development activity shall,  
468 except as otherwise provided for herein, pay a mobility fee as set forth in the following  
469 Mobility Fee Schedule:

DRAFT

<u>Mobility Fee Schedule Category / Land Use Type</u>	<u>Community Redevelopment Area</u>	<u>Tiers 1 &amp; 2</u>	<u>Tier 3</u>
<b><u>Residential Per Dwelling Unit</u></b>			
<u>Single Family Detached</u>	<u>\$1,574</u>	<u>\$1,784</u>	<u>\$2,099</u>
<u>Multi-Family Apartments</u>	<u>\$1,100</u>	<u>\$1,246</u>	<u>\$1,466</u>
<u>Single Family Attached / Townhome / Condo</u>	<u>\$961</u>	<u>\$1,089</u>	<u>\$1,281</u>
<u>Mobile Home / RV</u>	<u>\$825</u>	<u>\$935</u>	<u>\$1,100</u>
<u>Active Adult / Continuing Care (55 +Age Restricted)</u>	<u>\$589</u>	<u>\$667</u>	<u>\$785</u>
<b><u>Recreation &amp; Entertainment</u></b>			
<u>Racquet/Tennis Club per Court</u>	<u>\$1,749</u>	<u>\$1,982</u>	<u>\$2,332</u>
<u>Multipurpose Recreational Facility per Acre</u>	<u>\$9,390</u>	<u>\$10,642</u>	<u>\$12,520</u>
<u>Health/Fitness/Athletic Club per 1,000 sq. ft.</u>	<u>\$4,208</u>	<u>\$4,769</u>	<u>\$5,610</u>
<u>Recreational Community Center per 1,000 sq. ft.</u>	<u>\$2,499</u>	<u>\$2,833</u>	<u>\$3,332</u>
<u>Movie Theater per Seat</u>	<u>\$291</u>	<u>\$330</u>	<u>\$388</u>
<b><u>Institutional per 1,000 sq. ft.</u></b>			
<u>Private School (Pre K-12)</u>	<u>\$767</u>	<u>\$869</u>	<u>\$1,023</u>
<u>College / University</u>	<u>\$2,254</u>	<u>\$2,554</u>	<u>\$3,005</u>
<u>Place of Worship</u>	<u>\$896</u>	<u>\$1,016</u>	<u>\$1,195</u>
<u>Place of Worship with School (Pre K-12)</u>	<u>\$1,012</u>	<u>\$1,147</u>	<u>\$1,349</u>
<u>Day Care Center</u>	<u>\$2,024</u>	<u>\$2,294</u>	<u>\$2,699</u>
<b><u>Office per 1,000 sq. ft.</u></b>			
<u>Office</u>	<u>\$1,796</u>	<u>\$2,036</u>	<u>\$2,395</u>
<b><u>Medical Buildings per 1,000 sq. ft.</u></b>			
<u>Medical / Dental / Veterinary Offices</u>	<u>\$2,615</u>	<u>\$2,963</u>	<u>\$3,486</u>
<u>Hospitals</u>	<u>\$3,027</u>	<u>\$3,431</u>	<u>\$4,036</u>
<u>Nursing Home</u>	<u>\$1,031</u>	<u>\$1,169</u>	<u>\$1,375</u>

<u>Mobility Fee Schedule Category / Land Use Type</u>	<u>Community Redevelopment Area</u>	<u>Tiers 1 &amp; 2</u>	<u>Tier 3</u>
<b><u>Industrial Buildings per 1000 sq. ft.</u></b>			
<u>Warehousing / Manufacturing / Industrial</u>	<u>\$702</u>	<u>\$795</u>	<u>\$935</u>
<u>Mini-Warehousing</u>	<u>\$305</u>	<u>\$346</u>	<u>\$407</u>
<b><u>General Commercial Retail per 1000 sq. ft.</u></b>			
<u>Neighborhood Retail (less than 10,000 sq. ft.)</u>	<u>\$2,255</u>	<u>\$2,556</u>	<u>\$3,007</u>
<u>Community Retail (10,000 to 100,000 sq. ft.)</u>	<u>\$3,380</u>	<u>\$3,831</u>	<u>\$4,507</u>
<u>Regional Retail (Greater than 100,000 sq. ft.)</u>	<u>\$5,081</u>	<u>\$5,759</u>	<u>\$6,775</u>
<u>Sit Down Restaurant</u>	<u>\$5,524</u>	<u>\$6,260</u>	<u>\$7,365</u>
<u>Restaurant with Drive-Thru</u>	<u>\$14,867</u>	<u>\$16,849</u>	<u>\$19,822</u>
<u>Car Sales</u>	<u>\$4,072</u>	<u>\$4,615</u>	<u>\$5,429</u>
<u>Tire &amp; Auto Repair</u>	<u>\$2,003</u>	<u>\$2,270</u>	<u>\$2,670</u>
<b><u>Non-Residential</u></b>			
<u>Assisted Living per Bed</u>	<u>\$390</u>	<u>\$442</u>	<u>\$520</u>
<u>Hotel per Room</u>	<u>\$1,530</u>	<u>\$1,734</u>	<u>\$2,040</u>
<u>Bank/Savings per Drive-Thru Lane</u>	<u>\$6,299</u>	<u>\$7,138</u>	<u>\$8,398</u>
<u>Convenience Market &amp; Gas per Fuel Position</u>	<u>\$8,492</u>	<u>\$9,624</u>	<u>\$11,322</u>
<u>Quick Lube Vehicle Service per Bay</u>	<u>\$1,809</u>	<u>\$2,051</u>	<u>\$2,412</u>
<u>Free Standing Car Wash per Stall and Bay</u>	<u>\$3,257</u>	<u>\$3,691</u>	<u>\$4,342</u>

471

472 **Sec. 12-105. – Mobility Fee Determination.**473 (a) The mobility fee shall be determined using the land use categories in the Mobility Fee  
474 Schedule per Section 12-104(g).475 (b) In the event a project involves a land use not contemplated under the mobility fee land use  
476 categories adopted in Section 12-104(g), the mobility fee administrator shall determine the

477 mobility fee utilizing the closest land use category in the Mobility Fee Study adopted in  
478 Section 12-103.

479 (c) In the event of a development that involves a mixed use project, the mobility fee  
480 administrator shall determine the mobility fee based on each separate mobility fee land use  
481 category included in the proposed mixed use project.

482 (d) The mobility fee will be determined using the appropriate rate depending on the location of  
483 the development within the City. Separate rates apply for development within the  
484 Community Redevelopment Area, Tiers 1 and 2 and within Tier 3. The location of the  
485 Community Redevelopment Area, Tiers 1 and 2 and Tier 3 shall be consistent with the  
486 adopted 2030 Comprehensive Development Plan.

487

488 **Sec. 12-106. – Alternative mobility fee or special mobility fee determinations authorized.**

489 In the event an applicant believes that the cost to mitigate the impact of the development  
490 of improvements needed to serve the applicant’s proposed development is less than the fee  
491 established in this article, the applicant may request consideration of and submit an alternative  
492 mobility fee or special mobility fee determination request, along with a review fee as determined  
493 by the City, and support materials to substantiate the request to the mobility fee administrator  
494 pursuant to the provisions of this section. If the mobility fee administrator finds that the data,  
495 information, assumptions, formulae and methodology used by the applicant to calculate the  
496 alternative mobility fee or special mobility fee satisfy the requirements of this article, the  
497 alternative mobility fee or special mobility fee shall be deemed the mobility fee due and owing  
498 for the proposed development.

499

500 **Sec. 12-107. – Procedure for review of alternative mobility fee or special mobility fee**  
501 **determinations.**

502

503 The mobility fee administrator is responsible for calculating mobility fees in accordance with  
504 the provisions of this article. If an applicant believes project impacts are lower than justified by  
505 the findings of this article, or believes the proposed use is incorrectly assigned as identified in the  
506 mobility fee schedule, or that the assumptions that derive the mobility fee are not applicable to a  
507 specific proposed land use, an adjustment to the fees may be requested along with an application  
508 and review fee. The mobility fee administrator shall determine whether the request shall be  
509 reviewed as either an alternative mobility fee determination or a special mobility fee  
510 determination, based upon the impact of the proposed land use on the City’s mobility. The  
511 process for reviewing alternative mobility fee determinations is listed below in section 12-108.  
512 The process for special mobility fee determinations for minor projects with significantly less  
513 impacts is found in section 12-109.

514

515 **Sec. 12-108. – Alternative mobility fee determination.**

516

517 (a) The alternative mobility fee determination shall be based on data, information, assumptions,  
518 formulae and methodology contained in this article and the mobility fee study referred to in  
519 sections 12-103 herein, or independent sources, provided that:

- 520 (1) The independent source is (an) accepted standard source of transportation engineering or  
521 planning data or information; or
- 522 (2) The independent source is a local study carried out by a qualified planner or engineer  
523 pursuant to an accepted methodology of planning or engineering;
- 524 (3) Where different data, information, assumptions, formulae or methodology are employed  
525 such differences shall be specially identified and justified.
- 526 (b) An alternative mobility fee calculation shall be undertaken through the submission of an  
527 application for review of an alternative mobility fee determination for the mobility fee  
528 component for which an alternative mobility fee calculation is requested. A developer shall  
529 submit such an application in conjunction with the submittal of any development plan or  
530 petition for new or redevelopment or as otherwise agreed to in a mobility fee agreement.  
531 The City may submit such an application for any proposed land development activity for  
532 which it concludes the nature, timing or location of the proposed development makes it  
533 likely to generate impacts costing substantially more to remedy than the amount of the fee  
534 that would be generated by the use of the mobility fee schedule included in this article.
- 535 (c) Within twenty (20) days of receipt of an application for review of an alternative mobility fee  
536 determination, the mobility fee administrator, shall determine if the application is complete.  
537 If the mobility fee administrator, determines that the application is not complete, a written  
538 statement specifying the deficiencies shall be sent to the applicant. The application shall be  
539 deemed complete if no deficiencies are specified. The mobility fee administrator shall take  
540 no further action on the application until it is deemed complete.
- 541 (d) When the mobility fee administrator determines the application is complete, the application  
542 shall be reviewed and a written decision shall be render in thirty (30) days, or as soon  
543 thereafter as possible, on whether the mobility fee should be modified, and if so, what the  
544 amount should be.
- 545 (e) If the mobility fee administrator finds that the data, information, assumptions, formulae and  
546 methodology used by the applicant to compute the alternative mobility fee calculation  
547 satisfies the requirements of this article, the re-determined mobility fee shall be deemed the  
548 mobility fee due and owing for the proposed land development activity. This adjustment in  
549 the fee shall be set forth in a mobility fee agreement which shall be entered into pursuant to  
550 section 12-110.
- 551 (f) A determination by the mobility fee administrator that the alternative mobility fee re-  
552 determination does not satisfy the requirements of this article may be appealed to the City  
553 Council.
- 554 (g) The applicant shall be responsible for the full costs that the City may incur to review the  
555 alternative mobility fee data and methodology which may include consultant and legal costs.  
556 Payment will be due at the time of the request for the alternative calculations.
- 557 (h) An applicant who submits a proposed alternative mobility fee pursuant to this section and  
558 desires the issuance of a building permit or special use permit prior to the resolution of the  
559 pending alternative mobility fee shall pay the applicable mobility fee prior to, or at the time  
560 said applicant desires the building permit. Said payment shall be deemed paid “under  
561 protest” and shall not be construed as a waiver of any rights. Any difference in the amount

562 of the mobility fee after the determination of the pending alternative mobility fee shall be  
563 refunded to the applicant.

564 **Sec. 12-109. – Special mobility fee determination.**

565  
566 An applicant may request a special mobility fee determination for smaller, less intense  
567 projects when data and information are presented that substantiates that a project has unique  
568 characteristics other than those upon which the mobility fee calculation was based. It is the  
569 applicant's responsibility to submit adequate justification and support data to substantiate a lower  
570 impact to mobility fee administrator. The mobility fee administrator may review the request and  
571 ask for additional information. The applicant is responsible for additional costs that the City may  
572 incur to review these special requests, including consultant and legal costs. Payment will be due  
573 at the time of request for the determination.

574

575 **Sec. 12-110. – Presumptions, agreements and security requirements.**

576

577 (a) A proposed development shall be presumed to generate the maximum impact generated by  
578 the most intensive use permitted under the applicable land development regulations such as  
579 the comprehensive development plan or zoning regulations or under applicable deed or plat  
580 restrictions.

581 (b) In lieu of the payment of fees as calculated in sections 12-104(g) or 12-108 of this article,  
582 any applicant may propose to enter into a mobility fee agreement with the City designed to  
583 establish just and equitable fees or their equivalent and standards of service appropriate to  
584 the circumstances of the specific development proposed. Such an agreement may include,  
585 but shall not be limited to, provisions which:

586 (1) Modify the presumption of maximum impact set forth in subsection (a) of this section  
587 and provide a mobility fee which may differ from that set forth in section 12-104(g) or  
588 12-108 of this article by specifying the nature of the proposed development for purposes  
589 of computing actual impact, provided that the agreement shall establish legally  
590 enforceable means for ensuring that the impact will not exceed the impact generated by  
591 the agreed upon development;

592 (2) Permit the construction of specific improvements in lieu of or with a credit against the  
593 mobility fees assessable and/or pursuant to a payback schedule, allow the developer to  
594 recover the actual cost of such improvements in excess of the amount which would have  
595 been assessed by this article as subsequent users of such improvements obtained building  
596 permits and pay mobility fees.

597 (3) Permit a schedule and method for payment of the mobility fees in a manner appropriate  
598 to the particular circumstances of the proposed development in lieu of the requirements  
599 for payment of the fees as set forth in section 12-105, provided that security is posted  
600 ensuring payment of the fees, in a form acceptable to the City, which security may be in  
601 the form of a cash bond, surety bond, irrevocable letter of credit, negotiable certificate of  
602 deposit or escrow account, or lien or mortgage on lands to be covered by the building  
603 permit.

604 (c) Any agreement proposed by an applicant pursuant to this subsection shall be presented to  
605 and approved by the City Council prior to the issuance of a building permit. Any such  
606 agreement may provide for execution by mortgages, lienholders or contract purchasers in  
607 addition to the landowner, and may permit any party to record such agreement in the official  
608 records of Orange County. The City Council shall approve such an agreement only if it finds  
609 that the agreement will apportion the burden of expenditure for new facilities in a just and  
610 equitable manner.

611  
612 **Sec. 12-111. – Mobility Fee Credits.**  
613

614 (a) An applicant shall be entitled to a credit against any mobility fee assessed pursuant to this  
615 article in an amount equal to the cost of off-site multi-modal improvements or contributions  
616 of land, money or services for off-site mobility improvements contributed or previously  
617 contributed, paid for or committed to by the applicant or his predecessor in interest as a  
618 condition of any development order issued by the City of Maitland for the same  
619 development or for excess capacity created by the applicant or his predecessor in interest  
620 where such excess capacity is provided at the request of the City Engineer or through a  
621 development order and credit for same is agreed to by the mobility fee administrator in  
622 advance of the creation of the excess capacity and provided for in a mobility fee agreement,  
623 subject to City Council approval.

624 (b) Mobility fee specific credits are eligible for projects that have made a contribution or  
625 improvement to multi-modal facilities improvements beyond minimum-required mobility  
626 strategies in the Transportation Element of the Comprehensive Development Plan. Site  
627 access improvements for turn lanes, sidewalks, trails, round-a-bouts or traffic signals at  
628 project entrances or immediately adjacent improvements are not eligible for any credit. If an  
629 additional mobility fee credit remains from the prior eligible contribution, the remaining  
630 mobility fee credit shall be applied to the development occurring after the effective date of  
631 the mobility fee on a dollar for dollar basis.

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

634 (1) The appraised fair market land value of the contributed parcel as of the date of building  
635 permit, agreement to contribute, or contribution, whichever is earlier, as determined by  
636 an M.A.I. appraiser selected and paid for by the applicant. In the event the mobility fee  
637 administrator with the appraised value, he may engage another appraiser and the value  
638 shall be an amount equal to the average of the two (2) appraisals. No credit should be  
639 granted pursuant to this section unless the cost of the improvements were paid for and  
640 the contributions made within the last five (5) years; and

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

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

652 (d) Prior to issuance of a building permit or special use permit, the applicant shall submit to the  
653 mobility fee administrator a proposed plan for the construction or conveyance of off-site  
654 improvements to the multi-modal network.

655 The proposed plan shall include:

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

657 (2) A list of contemplated off-site improvements to the multi-modal network;

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

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

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

663 (e) Upon receipt of the proposed plan, the mobility fee administrator shall review the  
664 application and the proposed plan to determine if it complies with this section. The mobility  
665 fee administrator shall render a decision 30 days following receipt of the proposed plan to  
666 grant or deny the credit. Failure to render a decision within 45 days shall be deemed a  
667 denial.

668 (f) If the request for credit is denied and the applicant wishes to appeal such denial, the  
669 applicant shall file a notice of appeal with the City Manager, within 30 days of the denial.  
670 The City Manager shall render a decision within 30 days of the notice of appeal. An  
671 applicant may appeal the City Manager's decision to the City Council by filing a notice of  
672 appeal with the City within 30 days of the City Manager's determination. The City Council  
673 shall hear the appeal at the next available meeting. The decision of the City Council shall be  
674 considered final administrative action, and shall be subject to court review based only upon  
675 the record established at the hearing before the Council. An applicant shall have 30 days to  
676 appeal the City Council determination to Circuit Court by writ of certiorari.

677 (g) If a proposed plan of conveyance or construction is approved for credit by the mobility fee  
678 administrator, upon appeal, by the City Manager or City Council, the applicant and the City  
679 shall enter into a credit agreement which shall provide for the timing of the action to be  
680 taken by the applicant and the obligations and responsibilities of the parties, including but  
681 not limited to:

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

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

687 (3) The amount of credit as determined in accordance with 12-111(c).

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

692 (i) An applicant who submits a proposed plan pursuant to this section and desires the issuance  
693 of a building permit or special use permit prior to the resolution of the pending credit shall  
694 pay the applicable mobility fee prior to or at the time said applicant desires the building  
695 permit. Said payment shall be deemed paid “under protest” and shall not be construed as a  
696 waiver of any review rights. Any difference in the amount of mobility fee after the  
697 determination of the pending credit shall be refunded to the applicant or owner.

698 (j) Previous development permits or agreements prior to adoption of the mobility fee ordinance  
699 wherein voluntary road impact fees were specified and paid or obligated to be paid shall be  
700 binding as to any building permit already issued on land subject to the development permit.  
701 Improvements required by previous development permits shall not be given a credit unless  
702 they meet the requirements of subsection (a) above.

703 (k) Credit for contributions, payments, construction or dedications of a mobility fee shall not be  
704 transferable to another property where a mobility fee is imposed.

705 (l) Credit for redevelopment of existing uses shall be based upon the closest applicable land use  
706 per the mobility fee schedule in 12-104(g). The time frame to use the redevelopment credits  
707 is five (5) years from the date of demolition to the date of the subsequent building or  
708 development permit.

709  
710 **Sec. 12-112. Mobility Fee Benefit District.**

711  
712 (a) The establishments of a citywide mobility fee benefit district to regulate mobility fee  
713 expenditures is the best method of ensuring that the mobility fees paid provide a benefit to  
714 the development which paid the mobility fees. The basis for the citywide benefit district are  
715 the existing citywide travel patterns which accommodating daily trips from development  
716 throughout the City and the compact nature of the City and the location of the boundaries of  
717 existing adjacent municipalities and counties.

718 (b) The citywide mobility fee benefit district provides a clearly defined boundary for the  
719 expenditure of mobility fee revenue. Using the citywide mobility fee benefit district ensures  
720 that funds paid by development are spent on projects to accommodate person miles of travel,  
721 providing a reasonable nexus between the expenditure of mobility fee revenue and the  
722 development for which the mobility fees are paid.

723 (c) Based upon the foregoing, the mobility fee study concludes that the City should establish a  
724 citywide mobility fee benefit district. The boundary of the citywide mobility fee benefit  
725 district shall be the same as the City boundaries in effect at the time of the collection of any  
726 mobility fees within the City. The mobility fee benefit district, as depicted on Map H in the  
727 mobility fee technical report adopted per 12-103 and described in this section, is hereby  
728 established.

729  
730 **Sec. 12-113. Mobility Fee Funds Account**

731  
732 There is hereby-established a separate mobility fee fund account. For accounting purposes,  
733 the mobility fee funds shall be considered special revenue funds. Mobility fees collected from  
734 property located in the mobility fee benefit district shall be deposited into the corresponding  
735 mobility fee fund. Funds withdrawn from these accounts shall be used solely in accordance with  
736 the provision of Section 12-114.

737  
738 **Sec. 12-114. Mobility Fee Expenditures.**

- 739  
740 (a) Amounts on deposit in the mobility fee fund account shall be used by the City solely for  
741 developing multi-modal facilities or for financing directly, or as a pledge against bonds,  
742 revenue certificates and other obligations of indebtedness, the costs of multi-modal facilities,  
743 or portions thereof, that are located in the mobility fee benefit district from which the funds  
744 were collected, that are included in the City's capital improvement element and plan,  
745 mobility plan, bicycle and pedestrian plan, trails plan, transit development plan, and benefit  
746 new development located within the mobility fee benefit district.
- 747 (b) All funds shall be used exclusively for the capital assets for which they were collected.
- 748 (c) The amounts on deposit in the mobility fee fund shall not be used for an expenditure that  
749 would be classified as a transportation operation and maintenance expense.
- 750 (d) Funds withdrawn from these accounts must be used solely in accordance with the provisions  
751 of this section. The disbursement of such funds shall require the approval of the City Council  
752 upon recommendation of the city manager.
- 753 (e) Any funds on deposit not immediately necessary for expenditure shall be invested in  
754 interest-bearing accounts. Funds may be pooled for investment provided all income derived  
755 from the fund's assets shall be deposited in the applicable fund account.

756  
757 **Sec. 12-115. Mobility Fee Refunds.**

758  
759 The fees collected pursuant to this article shall be returned to the then present owner of the  
760 development if the fees have not been encumbered or spent by the end of the calendar quarter  
761 immediately following ten (10) years from the date the fees were collected, or if the development  
762 for which the fees were paid was never begun, in accordance with the following procedure:

763 For purposes of this section, fees collected shall be deemed to be encumbered or expended on a  
764 "first in-first out" basis, i.e. the first money placed in a fee fund shall be deemed to be the first  
765 money expended or encumbered. The following procedure will apply for requests for eligible  
766 refunds:

- 767 (a) The then present owner must petition the City Council for the refund within one (1) year  
768 following the end of the calendar quarter immediately following ten (10) years from the date  
769 on which the fee was received.
- 770 (b) The petition must be submitted to the city manager and must contain:
- 771 (1) A notarized sworn statement that the petitioner is the current owner of the property or  
772 his authorized agent;

- 773        (2) A copy of the dated receipt issued for payment of the fee or other competent evidence of  
774            payment;
- 775        (3) A certificate of title or attorney's title opinion showing the petitioner to be the current  
776            owner of the property or his authorized agent;
- 777        (4) A copy of the most recent ad valorem tax bill; and
- 778        (5) A copy of the building permit or development agreement pursuant to which the mobility  
779            fees were paid.
- 780        (c) Within sixty (60) days from the date of receipt of petition for refund, the City Manager or his  
781            designee shall advise the petitioner and the City Council of the status of the fee requested for  
782            refund. For the purposes of determining whether fees have been spent or encumbered, the  
783            first money placed in a trust fund account shall be deemed to be the first money taken out of  
784            that account when withdrawals have been made in accordance with Section 12-114.
- 785        (d) When the money requested is still in the trust fund account and has not been spent or  
786            encumbered by the end of the calendar quarter immediately following ten (10) years from the  
787            date of the fees were paid, the money shall be returned with interest at the rate of two (2)  
788            percent per annum.
- 789        (e) When a refund is requested because construction was never begun, all development order  
790            approvals shall have expired and the applicant shall execute an agreement acknowledging the  
791            expiration of development order approval.
- 792        (f) A request for a refund of impact fees or mobility fees must be made one (1) year from the  
793            issuance of the building permit or special use permit or six (6) months from the expiration of  
794            the permit whichever is later only if no development activity has started. The refund amount  
795            will be less ten (10) percent of the fees that were ultimately to have been paid, regardless of  
796            the amount actually paid. If the applicant does not apply within the time limits stated above,  
797            there will be no refund.

799        **Sec. 12-116. Effect on land development regulations.**

- 801        (a) The payment of mobility fees does not ensure nor grant compliance with the City's land  
802            development regulations, including regulations relating to transportation corridor  
803            management, access management, substandard roads, secondary access, timing and phasing,  
804            and, where applicable, development of regional impact review. However, if such regulations  
805            require transportation mitigation for the same impacts addressed through the payment of  
806            mobility fees, such regulations shall be deemed to provide for mobility fee credit against  
807            imposed mobility fees consistent with state and federal law and this Article.
- 808        (b) The listing of a land use in the mobility fee schedule is solely for purposes of establishing  
809            the applicable mobility fee schedule for such use, and such listing does not mean that the  
810            land use is permitted or available under applicable zoning and comprehensive development  
811            plan requirements. In addition, the listing of the land use in the mobility fee schedule shall  
812            not be considered evidence that the land use is appropriate in any land use classification or  
813            zoning district.

816 **Sec. 12-117. Annual report.**

817  
818 The City shall comply with all audit requirements of Florida Statutes. The City shall include  
819 in its annual Capital Improvements Plan update an accounting of projects funded by mobility  
820 fees. The annual budget shall indicate mobility fee revenues and expenditures.

821  
822 **Sec. 12-118. Review and update.**

823  
824 (a) This chapter shall be reviewed by the City Council at least once every five (5) years  
825 unless a more frequent review is determined necessary by the City Council or the City  
826 undertakes an update to the Comprehensive Development Plan that amends the Mobility  
827 Plan, which served as the basis for the mobility fee. The review and updates shall  
828 consider all factors utilized in the most recent computation of mobility fees. However, in  
829 the event that a full reevaluation and updates are not complete within the required five (5)  
830 year period, the last adopted mobility fee shall remain in effect until the reevaluation is  
831 complete. The purpose of this review is to analyze the effects of inflation on the actual  
832 costs of capital improvements, and to ensure that the mobility fee charged on new land  
833 development activity will not exceed its reasonably anticipated expansion costs for  
834 capital improvements necessitated solely by its presence.

835 (b) To ensure that mobility fees keep pace with inflation, on January 1<sup>st</sup> of each calendar  
836 year, the mobility fees in section 12-104 (g) shall increase by the projected rate of  
837 inflation for the upcoming calendar year as determined by the most recent FDOT  
838 Transportation Cost Report Construction Cost Inflation Factors released on or about  
839 August of each calendar year.

840 (c) The City shall update the mobility fees in section 12-104 (g) on or before September 30<sup>th</sup>  
841 of each calendar year and shall advertise the fees in a publication of general circulation  
842 available to City residents and businesses or as permitted by State Statute, on the City's  
843 website. The advertisement shall be published and/or posted 90 days prior to the increase  
844 of the Mobility Fees.

845 (d) The requirements of section 12-118(b) shall serve as notice to the public that mobility  
846 fees will increase on an annual basis, adjusted for inflation and this section shall be  
847 deemed to address Statutory requirements that notice be provided 90 days prior to an  
848 increase in a mobility fee. The notice requirement of section 12-118(c) is provided as a  
849 courtesy reminder.

850  
851 **Sec. 12-119. - Development agreements.**

852  
853 (a) An applicant may enter into a development agreement with the City to establish mobility  
854 fees or to provide equivalent multi-modal facility improvements necessary to serve new  
855 development. A development agreement may include, but shall not be limited to, provisions  
856 which:

857 (1) Permit the construction of multi-modal facility improvements in lieu of or with a credit  
858 against the mobility fee otherwise assessable under section 12-104(g);

859 (2) Provide for a transfer of credits as provided for in section 12-111 to any successor in  
860 interest in land;

861 (3) Allow a schedule and method of payment of mobility fees in a manner different than  
862 provided in section 12-104(b).

863 (b) Any agreement proposed by an applicant pursuant to this section shall be presented to and  
864 approved by the City Council prior to the issuance of a building permit or special use permit.  
865 Any such agreement shall provide for execution by any mortgagees, lienholders, or contract  
866 purchasers in addition to the landowner, and shall require the applicant to record such  
867 agreement in the public records of Orange County. The City Council shall approve such an  
868 agreement only if it finds that the new agreement will apportion the burden of expenditure  
869 for new facilities in a just and equitable manner, consistent with applicable Florida Statutes,  
870 case law and this article.

871

872 **Sec. 12-120. - Vested rights.**

873 (a) It is not the intent of this article to abrogate, diminish or modify the rights of any persons  
874 that have vested rights pursuant to a valid governmental act of the City. An applicant may  
875 petition the City Council for a vested rights determination which would exempt the applicant  
876 from the provisions of the article. The City shall evaluate the petition and submit a  
877 recommendation to the City Council based upon the following criteria:

878 (1) A valid, unexpired governmental act of the City, authorizing the building for which  
879 applicants seeks a certificate of occupancy, exists.

880 (2) Expenditures or obligations made or incurred in reliance upon the authorizing act are  
881 reasonably equivalent to the fee required by section 12-104(g).

882 (3) That it would be inequitable to deny the applicant the opportunity to occupy a  
883 previously approved building under the conditions of the previous approval by requiring  
884 the applicant to comply with the provisions of this article.

885 (b) If an applicant has previously entered into a development agreement with the City with  
886 conditions regarding off-site multi-modal facility improvements, the applicant or applicant's  
887 successor in interest may request a modification of the prior development agreement in order  
888 to bring the conditions into consistency with this article. Applicant must file a request for  
889 such modification with the development review committee within one year of the effective  
890 date of this article.

891 **Sec. 12-121. - Penalty.**

892 Violations of this article shall constitute a misdemeanor enforceable in accordance with  
893 section 1-8 of the City Code, or by an injunction or other legal or equitable relief in the circuit  
894 court against any person violating this article, or by both civil injunctive and criminal relief.

895 **Secs. 12-121—12-140. - Reserved.**

896 **SECTION 5. CODIFICATION.** It is the intent of the City Council of the City of  
897 Maitland that the provisions of this Ordinance shall be codified. The codifier is granted broad  
898 and liberal authority in codifying the provision of this Ordinance.

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**SECTION 6. SEVERABILITY.** If any section, sentence, phrase, word or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word or portion of this Ordinance not otherwise determined to be invalid, unlawful or unconstitutional.

**SECTION 7. CONFLICTS.** In any case where a provision of this Ordinance is found to be in conflict with a provision of any other ordinance of this City, the provision which establishes the higher standards for the promotion and protection of the health and safety of the people shall prevail.

**SECTION 8. EFFECTIVE DATE.** This Ordinance shall take effect on January 1<sup>st</sup>, 2017.

**ADOPTED** by the City Council of the City of Maitland, Florida, this \_\_\_\_ day of \_\_\_\_\_, 2016.

**CITY OF MAITLAND, FLORIDA**

**By:** \_\_\_\_\_  
**A. DALE MCDONALD, MAYOR**

**Attest:** \_\_\_\_\_  
**MARIA WALDROP, CITY CLERK**

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EXHIBIT "A"

~~ARTICLE IV. ROAD IMPACT FEES~~

~~Sec. 12-51. Authority.~~

~~The city has the authority to adopt this article pursuant to Article VIII of the Constitution of the State of Florida and Chapters 163 and 166, Florida Statutes.~~

~~Sec. 12-52. Intent and purpose.~~

- ~~(a) This article is intended to implement and be consistent with the City of Maitland Comprehensive Plan.~~
- ~~(b) The purpose of this article is to ensure that new development pays a fair share of the anticipated costs of road system improvements necessary to serve new development.~~
- ~~(c) This article is based on an inventory of the existing road system, an analysis of existing road system deficiencies, and an analysis of projected road system needs contained in reports entitled Traffic Circulation Element, City of Maitland Comprehensive Plan and Technical Memoranda prepared by jhk & Associates for the Maitland Impact Fee Study.~~

~~Sec. 12-53. Limitation on issuance of building permit.~~

~~The city shall require any applicant for the issuance of a building permit for a new building, for the addition to an existing building, or for the change to a more intensive use of an existing building to pay a road impact fee in the manner and amount set forth herein. Except as provided herein, no building permit shall be issued unless and until the applicant pays the required road impact fee.~~

~~Sec. 12-54. Road impact fee schedule.~~

- ~~(a) The road impact fee shall be determined in accordance with the road impact fee schedule set forth in Exhibit A attached to Ordinance No. 764 and by this reference made a part hereof. As an alternative, an applicant may propose an independent impact fee calculation as set forth in section 12-55 herein or may propose to enter into a development agreement with the city as set forth in section 12-56 herein.~~
- ~~(b) In the event that an applicant for a building permit contends that the new building for which the building permit is requested is not within the categories set forth in Exhibit A, then the zoning administrator shall make a determination as to the appropriate category. The applicant may appeal such determination to the city council, whose decision shall be final and binding on the applicant.~~

970

971 ~~Sec. 12-55. Independent road impact fee calculation.~~

972 ~~(a) In the event an applicant believes the impact of the new building will be less than that~~  
 973 ~~established in section 12-54 above, the applicant may submit an independent road impact fee~~  
 974 ~~calculation to the development review committee. The development review committee shall~~  
 975 ~~review the data, information and assumptions used by the applicant in the independent road~~  
 976 ~~impact fee calculation to determine whether the requirements of this section are satisfied. If~~  
 977 ~~the development review committee finds that the requirements of this section are satisfied, it~~  
 978 ~~shall recommend an independent road impact fee for the applicant to the city council. If the~~  
 979 ~~development review committee finds that requirements of this section are not satisfied, it~~  
 980 ~~shall recommend to the city council the road impact fee schedule set forth in section 12-54~~  
 981 ~~for the applicant. The decision of the city council as to an independent road impact fee or the~~  
 982 ~~road impact fee schedule shall be final and binding on the applicant.~~

983 ~~(b) The applicant shall use the following formula to calculate the proposed independent road~~  
 984 ~~impact fee:~~

<del>Independent Impact Fee</del>	<del>=</del>	<del><math>\frac{TGR \times TL \times PNT \times C}{2 \times S}</math></del>	<del>-CR</del>
		<del>2×S</del>	

985 -

<del>TRG</del>	<del>=</del>	<del>Daily trip generation rate</del>
<del>TL</del>	<del>=</del>	<del>Average trip length</del>
<del>PNT</del>	<del>=</del>	<del>Percent new trips</del>
<del>C</del>	<del>=</del>	<del>Per lane per mile cost of average roadway</del>
<del>S</del>	<del>=</del>	<del>Daily per lane capacity of average roadway</del>
<del>CR</del>	<del>=</del>	<del>Credit</del>

986 -

987 ~~(c) The applicant shall base the independent road impact fee calculations on data, information~~  
 988 ~~or assumptions contained in this section or provided by independent sources, only if:~~

- 989           ~~(1) The independent source is an accepted standard source of transportation engineering or~~  
990           ~~planning data or information;~~
- 991           ~~(2) The independent source is a local study carried out by a qualified traffic planner or~~  
992           ~~professional engineer licensed by the State of Florida pursuant to an accepted~~  
993           ~~methodology of transportation planning or engineering; or~~
- 994           ~~(3) If a prior applicant submitted, during a prior approval process, a traffic impact study~~  
995           ~~consistent with the criteria required by this section, and if the development review~~  
996           ~~committee determines that the study is still valid, the traffic impacts of the new building~~  
997           ~~shall be presumed to be as described in such prior study. There shall be a rebuttable~~  
998           ~~presumption that a traffic impact study conducted more than two (2) years prior to the~~  
999           ~~effective date of this article [January 15, 1991] is invalid.~~

1000       ~~(d) The percent new trips factor used in the independent road impact fee calculation shall be~~  
1001       ~~based on actual surveys conducted in the City of Maitland or Orange County or based on~~  
1002       ~~professional studies including commonly used references. For the purposes of the~~  
1003       ~~independent road impact fee calculation, the percent new trips factor shall be the percentage~~  
1004       ~~of average daily trips that a proposed use will generate that constitute new or additional trips~~  
1005       ~~added to the city's major road network system. Those trips that do not represent additional~~  
1006       ~~trip ends shall not be counted as new or additional trips.~~

1007       ~~(e) The new building shall be presumed to generate the maximum number of average daily trips~~  
1008       ~~to be generated by the most intensive use permitted under the applicable land development~~  
1009       ~~regulations, such as the comprehensive plan or zoning regulations, or under applicable deed~~  
1010       ~~or plat restrictions.~~

1011       ~~(f) The applicant shall pay the cost of the city review of the independent road impact fee~~  
1012       ~~calculation. Upon submission of the independent road impact fee calculation by the~~  
1013       ~~applicant, the city clerk shall collect a review deposit of one thousand five hundred dollars~~  
1014       ~~(\$1,500.00) from the applicant.~~

1015

1016       ~~Sec. 12-56. Development agreements.~~

1017       ~~(a) An applicant may enter into a development agreement with the city to establish road impact~~  
1018       ~~fees or to provide equivalent road improvements necessary to serve new buildings. A~~  
1019       ~~development agreement may include, but shall not be limited to, provisions which:~~

1020           ~~(1) Permit the construction of specific road system improvements in lieu of or with a credit~~  
1021           ~~against the road impact fee otherwise assessable under section 12-54 or 12-55 above;~~

1022           ~~(2) Provide for a transfer of credits as provided for in section 12-57 to any successor in~~  
1023           ~~interest in land;~~

1024           ~~(3) Allow a schedule and method of payment of impact fees in a manner different than~~  
1025           ~~provided in section 12-61.~~

1026       ~~(b) Any agreement proposed by an applicant pursuant to this section shall be presented to and~~  
1027       ~~approved by the city council prior to the issuance of a building permit. Any such agreement~~  
1028       ~~shall provide for execution by any mortgagees, lienholders, or contract purchasers in~~

1029 addition to the landowner, and shall require the applicant to record such agreement in the  
1030 public records of Orange County. The city council shall approve such an agreement only if it  
1031 finds that the new agreement will apportion the burden of expenditure for new facilities in a  
1032 just and equitable manner, consistent with applicable Florida Statutes, case law and this  
1033 article.

1034

1035 ~~Sec. 12-57. Credits.~~

1036 ~~(a) An applicant shall be entitled to a credit against the road impact fee assessed pursuant to this~~  
1037 ~~Ordinance in an amount equal to the cost of off-site improvements and the cost of~~  
1038 ~~improvements to on-site roads which create excess capacity for general public traffic or~~  
1039 ~~contributions of land, money, or services contributed or previously contributed by the~~  
1040 ~~applicant or applicant's predecessor in interest as a condition of any development agreement~~  
1041 ~~entered into with the city. Such credit shall be based on the following criteria:~~

1042 ~~(1) The actual cost, or estimated cost based on recent bid sheet information of the City of~~  
1043 ~~Maitland or Orange County, of off-site related improvements by the applicant to the~~  
1044 ~~road system. Off-site improvements eligible for a credit are those improvements~~  
1045 ~~proposed for a building site which are required by the city to serve the building's~~  
1046 ~~external trips and general public traffic. Improvements not eligible for a credit are those~~  
1047 ~~necessary to serve internal trips or to provide safe and adequate ingress and egress, such~~  
1048 ~~as acceleration and deceleration lanes, turn lanes, traffic signals, paving of existing~~  
1049 ~~rights-of-way, or perimeter roads.~~

1050 ~~(2) The actual cost, or estimated cost of improvements based on recent bid sheet~~  
1051 ~~information of the city or the county with respect to that portion of on-site roads which~~  
1052 ~~create excess capacity for general public traffic.~~

1053 ~~(3) The contribution of land, money, or services by the applicant for off-site improvements~~  
1054 ~~to the road system and for improvements to on-site roads which create excess capacity~~  
1055 ~~for general public traffic. The credit for land contributed will be based on a pro-rate~~  
1056 ~~share of the appraised land value of the parent parcel as determined by an M.A.I.~~  
1057 ~~appraiser selected and paid for by the applicant and approved by the development~~  
1058 ~~review committee, or based on such other method as may be mutually agreed upon by~~  
1059 ~~the applicant and the development review committee. In the event the development~~  
1060 ~~review committee disagrees with the appraised value, the city may select and pay for~~  
1061 ~~another appraiser and the credit shall be an amount equal to the average of the two (2)~~  
1062 ~~appraisals.~~

1063 ~~(4) Unless otherwise provided in a development agreement between the city and the~~  
1064 ~~applicant or applicant's predecessors in title, no credit for contributions or donations~~  
1065 ~~made prior to the effective date of this article shall be granted unless the cost of the~~  
1066 ~~improvements were paid for or the contributions were made within the two (2) years~~  
1067 ~~prior to the effective date of this article.~~

1068 ~~(5) No credit shall exceed the amount of the road impact fee assessed under sections 12-54,~~  
1069 ~~12-55 or 12-56 above.~~

- 1070 ~~(b) The development review committee shall determine the amount of the credit provided,~~  
1071 ~~however, that the applicant may appeal the determination to the city council, whose decision~~  
1072 ~~shall be final and binding on the applicant.~~
- 1073 ~~(c) The applicant may transfer any credit issued pursuant to this section to any successor in~~  
1074 ~~interest of the property.~~
- 1075 ~~(d) Previous development agreements wherein voluntary road impact fees were specified and~~  
1076 ~~paid shall be binding as to any building permit already issued on land subject to the~~  
1077 ~~development agreement.~~

1078

1079 ~~Sec. 12-58. Vested rights.~~

1080 ~~(a) It is not the intent of this article to abrogate, diminish or modify the rights of any persons~~  
1081 ~~that have vested rights pursuant to a valid governmental act of the city. An applicant may~~  
1082 ~~petition the city council for a vested rights determination which would exempt the applicant~~  
1083 ~~from the provisions of the article. The city attorney shall evaluate the petition and submit a~~  
1084 ~~recommendation to the city council based upon the following criteria:~~

1085 ~~(1) A valid, unexpired governmental act of the city, authorizing the building for which~~  
1086 ~~applicants seeks a certificate of occupancy, exists.~~

1087 ~~(2) Expenditures or obligations made or incurred in reliance upon the authorizing act are~~  
1088 ~~reasonably equivalent to the fee required by section 12-54.~~

1089 ~~(3) That it would be inequitable to deny the applicant the opportunity to occupy a~~  
1090 ~~previously approved building under the conditions of the previous approval by requiring~~  
1091 ~~the applicant to comply with the provisions of this article.~~

1092 ~~(b) If an applicant has previously entered into a development agreement with the city with~~  
1093 ~~conditions regarding off-site road system improvements, the applicant or applicant's~~  
1094 ~~successor in interest may request a modification of the prior development agreement in order~~  
1095 ~~to bring the conditions into consistency with this article. Applicant must file a request for~~  
1096 ~~such modification with the development review committee within one year of the effective~~  
1097 ~~date of this article.~~

1098

1099 ~~Sec. 12-59. Exemptions.~~

1100 ~~The following shall be exempt from payment of the road impact fee:~~

1101 ~~(1) Those buildings which have been issued a building permit prior to the effective date of~~  
1102 ~~this article.~~

1103 ~~(2) Additions to or expansions of a residential dwelling unit which has been issued a~~  
1104 ~~building permit.~~

1105

1106 ~~Sec. 12-60. Establishment of trust fund.~~

1107 ~~The city shall maintain a separate account for road impact fees it collects pursuant to this~~  
1108 ~~article. Funds withdrawn from this account must be used solely in accordance with the~~  
1109 ~~provisions of this article. The disbursal of such funds shall require the approval of the city~~  
1110 ~~council.~~

1111

1112 ~~Sec. 12-61. Collection of road impact fee.~~

1113 ~~Except as provided for in section 12-60 above, the road impact fee shall be due and payable~~  
1114 ~~at the time of issuance of the building permit.~~

1115 ~~Sec. 12-62. Use of road impact fee.~~

1116 ~~(a) The city shall use the funds collected by reason of establishment of the road impact fee in~~  
1117 ~~accordance with this article solely for the purpose of planning, acquisition, expansion, and~~  
1118 ~~development of off-site improvements to the road system needed to offset the impacts of~~  
1119 ~~new development within the city, including, but not limited to:~~

1120 ~~(1) Permit application preparation,~~

1121 ~~(2) Design and construction plan preparation,~~

1122 ~~(3) Right-of-way acquisition, including legal fees,~~

1123 ~~(4) Construction of new through lanes,~~

1124 ~~(5) Construction of new turn lanes,~~

1125 ~~(6) Construction of new bridges,~~

1126 ~~(7) Construction of new drainage facilities in conjunction with new road construction,~~

1127 ~~(8) Purchase and installation of traffic signalization,~~

1128 ~~(9) Construction of new curbs, medians, shoulders, sidewalks, and bicycle paths in~~  
1129 ~~conjunction with new road construction,~~

1130 ~~(10) Relocating utilities to accommodate new road construction.~~

1131 ~~(b) The city shall use funds exclusively within the city in a manner consistent with the~~  
1132 ~~principles set forth in Florida Statutes and case law, and otherwise consistent with all~~  
1133 ~~requirements of the Constitution of the United States and the State of Florida. These funds~~  
1134 ~~shall not be used to maintain or repair any roads.~~

1135 ~~(c) The city shall invest any funds on deposit not immediately necessary for expenditure in~~  
1136 ~~interest-bearing accounts. The city shall deposit all income derived in the road impact fee~~  
1137 ~~account. Applicants shall not receive a credit for or be entitled to interest from the~~  
1138 ~~investment of funds.~~

1139 ~~(d) Any funds not expended or encumbered six (6) years from the date road impact fee was paid~~  
1140 ~~shall, upon application of the fee-payer and proof of payment, be returned with interest at the~~  
1141 ~~rate of six (6) percent per annum.~~

1142

1143 ~~Sec. 12-63. Penalty.~~

1144 ~~Violations of this article shall constitute a misdemeanor enforceable in accordance with~~  
1145 ~~section 1-8 of the City Code, or by an injunction or other legal or equitable relief in the circuit~~  
1146 ~~court against any person violating this article, or by both civil injunctive and criminal relief.~~

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EXHIBIT "B"

1171 ~~ARTICLE V. PROPORTIONATE FAIR SHARE PROGRAM FOR TRANSPORTATION~~  
1172 ~~FACILITIES~~

1173 ~~Sec. 12-81. Purpose and intent.~~

1174 ~~The purpose of this article is to establish a method whereby the impacts of development on~~  
1175 ~~transportation facilities can be mitigated by the cooperative efforts of the public and private~~  
1176 ~~sectors, to be known as the Proportionate Fair Share Program, as required by and in a manner~~  
1177 ~~consistent and in accordance with § 163.3180(16), F.S. This article will also provide methods~~  
1178 ~~and procedures for the City of Maitland to implement the Proportionate Fair Share Program. It is~~  
1179 ~~not the intent of this ordinance to negate roadway access requirements applicable for public~~  
1180 ~~safety purposes relating to Florida Fire Prevention Code.~~

1181

1182 ~~Sec. 12-82. Applicability.~~

1183 ~~The proportionate fair Share program shall apply to all proposed developments in the City~~  
1184 ~~of Maitland that have been notified of a lack of capacity to satisfy transportation concurrency on~~  
1185 ~~a transportation facility in the City of Maitland's Concurrency Management System (CMS),~~  
1186 ~~including transportation facilities maintained by the City of Maitland, Orange County, FDOT or~~  
1187 ~~an adjacent jurisdiction, that are relied upon for concurrency determinations, pursuant to the~~  
1188 ~~requirements of section 12-84. The proportionate fair Share program does not apply to~~  
1189 ~~developments of regional impact (DRIs) using proportionate fair share under § 163.3180(12),~~  
1190 ~~F.S., or to developments that have been exempted from concurrency requirements as provided by~~  
1191 ~~local and state law.~~

1192

1193 ~~Sec. 12-83. Definitions.~~

1194 ~~Unless the context specifically indicates otherwise, the meaning of terms used in this article~~  
1195 ~~shall have the meanings hereinafter designated:~~

1196 ~~*Annual capacity statement:* "Annual capacity statement" is the Capital Improvements~~  
1197 ~~Program (CIP) issued by the City each year indicating the Level of Service (LOS) of the~~  
1198 ~~facilities or services covered by the City's Concurrency Management System (CMS).~~

1199 ~~*Approved traffic study:* "Approved traffic study" is a study to estimate and assess traffic~~  
1200 ~~demand patterns and quantities and to identify mitigation measures needed to meet LOS~~  
1201 ~~standards, based on the type and size of a proposed development, signed and sealed by a civil~~  
1202 ~~engineer specializing in traffic engineering or transportation engineering. An approved traffic~~  
1203 ~~study may be required by the City as part of a complete application.~~

1204 ~~*Capital improvement element:* "Capital improvement element" is the element of the City of~~  
1205 ~~Maitland's Comprehensive Development Plan, as amended annually by Capital Improvements~~

1206 ~~Program (CIP) which evaluates the need for public facilities as identified in the comprehensive~~  
1207 ~~development plan elements and as defined in the applicable definition of each public facility,~~  
1208 ~~which estimates the cost of improvements, which analyzes the fiscal capability of the local~~  
1209 ~~government to finance and construct improvements, which adopts financial policies to guide the~~  
1210 ~~funding of improvements, and which schedules the funding and construction of improvements in~~  
1211 ~~a manner necessary to ensure that capital improvements are provided when required based on the~~  
1212 ~~needs identified in the comprehensive plan.~~

1213 ~~*Certificate of concurrency:* "Certificate of concurrency" is the official written report (e.g.,~~  
1214 ~~site plan approval report, permitted conditional use report etc.) issued by the City of Maitland~~  
1215 ~~staff which documents concurrency approval for a development application.~~

1216 ~~*City:* The "City" is hereby defined as the City of Maitland, Florida.~~

1217 ~~*Comprehensive operational assessment (COA):* The COA is the Central Florida Regional~~  
1218 ~~Transportation Authority's (LYNX) Comprehensive Operational Assessment, 2006 and all~~  
1219 ~~subsequent updates and successors to the LYNX COA.~~

1220 ~~*Complete application:* "Complete application" is the application form and all accompanying~~  
1221 ~~documents, fees and exhibits required of an applicant by the City for development review~~  
1222 ~~purposes, and determined in writing by the City to be sufficient.~~

1223 ~~*Comprehensive development plan (CDP):* "Comprehensive Development Plan" (CDP) is~~  
1224 ~~defined as the City of Maitland's Comprehensive Development Plan addressing the planning~~  
1225 ~~period 2001-2020, adopted April 8, 2002, as periodically amended in accordance and consistent~~  
1226 ~~with state statutes.~~

1227 ~~*Concurrency:* "Concurrency" is the provision for assuring that improvements or strategies to~~  
1228 ~~accommodate the impacts of development are in place at the time of development or that a~~  
1229 ~~financial commitment is in place to complete the improvements or strategies so that the level of~~  
1230 ~~service for transportation facilities do not fall below the level of service standards adopted by the~~  
1231 ~~City's comprehensive plan due to the impacts of new development. Transportation facilities~~  
1232 ~~needed to serve new development shall be in place or under actual construction within three (3)~~  
1233 ~~years after the local government approves a building permit or its functional equivalent that~~  
1234 ~~results in traffic generation. (§ 163.3180(2)(c), F.S.).~~

1235 ~~*Concurrency approval:* "Concurrency approval" is the official determination by the City of~~  
1236 ~~Maitland Development Review Committee (DRC) that a proposed development will not result in~~  
1237 ~~the reduction of the level of service below the standards set forth in the City's comprehensive~~  
1238 ~~plan for facilities and services. Concurrency approval will be documented in writing by a~~  
1239 ~~recommendation or decision report signed by the chairman of the DRC.~~

1240 ~~*Concurrency determination:* "Concurrency determination" is a technical study and~~  
1241 ~~evaluation of the impacts on the applicable facilities or services, including forecasted level of~~  
1242 ~~service of a proposed land use development using current data and analytical techniques.~~

1243 ~~*Concurrency management system (CMS):* "Concurrency management system" (CMS) is the~~  
1244 ~~City of Maitland's Concurrency Management System, and adjacent communities' concurrency~~  
1245 ~~management systems unless specifically noted.~~

1246 ~~*County:* "County" is Orange County Government or Seminole County Government.~~

1247 ~~*Design guidelines/standards:* "Design guidelines/standards" are the City of Maitland's~~  
1248 ~~current Code City of Maitland and any other area specific land development regulations, pattern~~  
1249 ~~books or guidelines enacted by the City by ordinance that are applicable to the subject~~  
1250 ~~development.~~

1251 ~~*Developer:* "Developer" is an individual, agency, or group that submits a development~~  
1252 ~~application to the City of Maitland or enters into discussion or negotiation with the City of~~  
1253 ~~Maitland regarding potential development within the City limits.~~

1254 ~~*Development:* "Development" is any construction, reconstruction or any use of real property~~  
1255 ~~which requires review and approval of a development permit.~~

1256 ~~*Development agreement:* "Development Agreement" is an enforceable agreement entered~~  
1257 ~~into between the City of Maitland and a developer in which specific development terms,~~  
1258 ~~conditions, obligations are defined and agreed upon, including agreements entered pursuant to~~  
1259 ~~the City's home rule powers under the Florida Constitution and Chapter 166, Florida Statutes, an~~  
1260 ~~agreement entered pursuant to Sections 163.3220—163.3243, or an agreement or Development~~  
1261 ~~Order issued pursuant to Chapter 380, Florida Statutes.~~

1262 ~~*Development order:* "Development order" is any order granting, with or without conditions,~~  
1263 ~~or denying, a development permit including any building permit, zoning permit, rezoning,~~  
1264 ~~subdivision approval, site plan approval, permitted conditional use, certification, variance or any~~  
1265 ~~official action of the City having the effect of permitting any type, level, nature, density,~~  
1266 ~~intensity, or other form of development of land.~~

1267 ~~*De minimis impact:* "De minimis impact" is an impact that would not affect more than one~~  
1268 ~~(1) percent of the maximum service volume at the adopted level of service of the affected~~  
1269 ~~transportation facility as determined by the local government; provided, however, that total~~  
1270 ~~capacity for any transportation facility shall not exceed one hundred ten (110) percent of the~~  
1271 ~~maximum volume of the adopted level of service of the affected transportation facility, all~~  
1272 ~~pursuant to Section 163.3180(6), Florida Statutes.~~

1273 ~~*FDOT Annual Work Program and the FDOT Five (5) Year Work Program:* The "FDOT~~  
1274 ~~Annual Work Program" and the "FDOT Five (5) Year Work Program" are those documents~~  
1275 ~~developed by the Florida Department of Transportation (FDOT) that identifies annual and long-~~  
1276 ~~term, programmed and planned transportation projects, programs and policies as required by~~  
1277 ~~section 339.135 Florida Statutes.~~

1278 ~~*FDOT T.R.I.P. Program:* The FDOT T.R.I.P. Program is the Transportation Regional~~  
1279 ~~Incentive Program (TRIP). TRIP was created to improve regionally significant transportation~~  
1280 ~~facilities in "regional transportation areas". State funds are available throughout Florida to~~  
1281 ~~provide incentives for local governments and the private sector to help pay for critically needed~~  
1282 ~~projects that benefit regional travel and commerce.~~

1283 ~~*Impact fee:* "Impact fee" is the payment of money for a proportional share of the cost of~~  
1284 ~~transportation facilities needed to serve new growth and development; authorized by the Code~~  
1285 ~~City of Maitland, Part II, Chapter 12, Article IV. Road Impact Fees, or as may be amended by~~  
1286 ~~ordinance from time to time, upon the development as a condition of issuance of a development~~  
1287 ~~permit to mitigate the impacts of the development of facilities on the City, but not including any~~  
1288 ~~permit or application fee. Payment of Impact Fees does not ensure that concurrency has been~~  
1289 ~~met.~~

1290 ~~*Level of service (LOS): "Level of service" is that functional classification assigned a*~~  
1291 ~~roadway that is within the City limits by either FDOT or the City.~~

1292 ~~*Maitland Area Transportation Study (MATS): "MATS" is the summary report and*~~  
1293 ~~recommendations contained within the Maitland Area Transportation Study updated June, 2004.~~

1294 ~~*Major mobility improvements: "Major mobility" improvements are those transportation*~~  
1295 ~~improvements that provide facilities, funds, buildings, shelters and vehicles for additional transit~~  
1296 ~~services and/or improves the efficacy and efficiency of the delivery of transit services. Major~~  
1297 ~~mobility improvements shall also be defined as those items identified in the most recent version~~  
1298 ~~or update of the following documents or reports: the City's (MATS); Lynx's (COA); the FDOT~~  
1299 ~~Annual Work Program and the FDOT Five (5) Year Work Program, and the Capital~~  
1300 ~~Improvement Plan section of the LYNX Transit Development Plan as amended from time to~~  
1301 ~~time.~~

1302 ~~*Municipality: "Municipality" is defined as any adjacent municipality, including but not*~~  
1303 ~~limited to: the City of Winter Park; the City of Altamonte Springs; the City of Eatonville and the~~  
1304 ~~City of Winter Springs.~~

1305 ~~*Planned development (PD): "Planned Development" or "PD" is any development project*~~  
1306 ~~that satisfies the criteria and terms listed in section 21-21 (PD, Planned Development District) of~~  
1307 ~~the City of Maitland Zoning Code (1990).~~

1308 ~~*Project: "Project" is defined as any construction, reconstruction or any use of real property*~~  
1309 ~~which requires review and approval of a development permit.~~

1310 ~~*Project costs: "Project costs" are all costs associated with proposed development, new*~~  
1311 ~~construction or an improvement to an existing structure(s) within the City limits of Maitland~~  
1312 ~~including but not limited to engineering, planning, surveying, permitting, site preparation, on-site~~  
1313 ~~and off-site improvements and development costs.~~

1314 ~~*Proportionate fair share: The "proportionate fair share" contribution for local and*~~  
1315 ~~regionally significant traffic impacts is the amount sufficient for the applicant to pay for the~~  
1316 ~~necessary improvements that are required, as a result of a specific project or development, to~~  
1317 ~~maintain the acceptable level of service (LOS) of the affected transportation facility.~~

1318 ~~*Proportionate fair share agreement: The "proportionate fair share agreement" is a written*~~  
1319 ~~agreement prepared by the City of Maitland which identifies specific financial contributions due~~  
1320 ~~from the applicant that are sufficient to pay for the necessary proportionate improvements to~~  
1321 ~~local and regionally impacted roadways, in order to maintain the acceptable level of service~~  
1322 ~~(LOS) of the affected transportation facility. The impact upon the affected transportation facility~~  
1323 ~~is a result of a specific project or development.~~

1324 ~~*Roadway network: "Roadway network" is that group of roads, streets and highways located*~~  
1325 ~~within, adjacent or serving the City of Maitland, Orange County, Seminole County and adjacent~~  
1326 ~~municipalities.~~

1327 ~~*Special districts: "Special district" is a local unit of special purpose, as opposed to general-*~~  
1328 ~~purpose, government within a limited boundary, created by general law, special act, local~~  
1329 ~~ordinance, or by rule of the Governor and Cabinet and as defined by Florida Statutes Section~~  
1330 ~~189.403 (Definitions).~~

1331 ~~Strategic intermodal system (SIS): "Strategic Intermodal System" (SIS) is a statewide~~  
1332 ~~network of high-priority transportation facilities that support travel between 32 regions within~~  
1333 ~~Florida as well as between Florida and other states and nations as per the FDOT definition and~~  
1334 ~~criteria listed in the Florida's Strategic Intermodal System Plan, October 15, 2004.~~

1335 ~~Transit capital improvements: "Transit capital improvements" are those transportation~~  
1336 ~~improvements that directly affect the provisions of public transit, including transit terminals,~~  
1337 ~~transit lines and routes, separate lanes for the exclusive use of public transit services, transit stops~~  
1338 ~~(shelters and stations), office buildings or projects that include fixed-rail or transit terminals as~~  
1339 ~~part of the building, and projects which are transit oriented and designed to complement~~  
1340 ~~reasonably proximate planned or existing public facilities. Transit capital improvements shall~~  
1341 ~~also be defined as those items identified in the (MATS), the FDOT Annual Work Program and~~  
1342 ~~the FDOT Five (5) Year Work Program, the LYNX (COA) report and the Capital Improvement~~  
1343 ~~Plan section of the LYNX Transit Development Plan as amended from time to time.~~

1344 ~~TRIPS: "Trips" are those additional vehicle actions resulting from proposed development as~~  
1345 ~~defined by the most recent edition of the Institute of Transportation Engineers (ITE) Trip~~  
1346 ~~Generation Handbook. Trips may also be determined by use of the Florida Standard Urban~~  
1347 ~~Transportation Model Structure (FSUTMS). Trip determination for freight (trucks) and other non~~  
1348 ~~passenger freight related transportation may be determined through the use of the Florida~~  
1349 ~~Intermodal Statewide Highway Freight Model (FISHFM) or other trip estimation methodology~~  
1350 ~~that is acceptable to the City.~~

1351

1352 ~~Sec. 12-84. General requirements:~~

1353 ~~(1) If a development is determined by the City to have an adverse impact on the transportation~~  
1354 ~~system during development review process, an applicant may choose to satisfy the~~  
1355 ~~transportation concurrency requirements of the City by making a proportionate fair share~~  
1356 ~~contribution, pursuant to the following requirements:~~

1357 ~~(a) The proposed development is consistent with the City's Comprehensive Development~~  
1358 ~~Plan, applicable special district or redevelopment plan(s), applicable Code City of~~  
1359 ~~Maitland and design guidelines and compatible with identified community needs; and~~

1360 ~~(b) The City's five-year schedule of capital improvements in the Capital Improvements~~  
1361 ~~Element (CIE) or the long-term schedule of capital improvements for the long-term~~  
1362 ~~CMS includes a transportation improvement(s) that, upon completion, will satisfy the~~  
1363 ~~requirements of the impacts of a specific project or development upon the applicable~~  
1364 ~~transportation facility. Provided however, the provisions of section 12-84(2) may apply~~  
1365 ~~if a project or projects needed to satisfy concurrency are not presently contained within~~  
1366 ~~the City's CIE, Maitland's (MATS), or the adopted long-term schedule of capital~~  
1367 ~~improvements for FDOT or Orange County, Florida.~~

1368 ~~(c) A proportionate fair share contribution may involve the addition of transportation~~  
1369 ~~capacity through several means including but not limited to:~~

1370 ~~i. The physical widening and/or reconstruction of a roadway to add capacity;~~

- 1371 ii. ~~Where the primary roadway is constrained or widening is not desired, transit capital~~
- 1372 ~~facilities and other major mobility improvements as identified in LYNX's (COA)~~
- 1373 ~~may be considered;~~
- 1374 iii. ~~Where the primary roadway is constrained or widening is not desired, the addition~~
- 1375 ~~of transportation capacity could involve creating new reliever roadways;~~
- 1376 iv. ~~Where the primary roadway is constrained or widening is not desired, new roadway~~
- 1377 ~~network additions; or~~
- 1378 v. ~~Any other means determined by the City to add additional transportation capacity~~
- 1379 ~~sufficient to mitigate impacts from the proposed development.~~

1380 (2) ~~If a determination is made that there is an adverse impact on adopted LOS, as per section~~

1381 ~~12-86, the City may choose to allow an applicant to satisfy transportation concurrency~~

1382 ~~through the proportionate fair Share program by approving the applicant's contribution to an~~

1383 ~~improvement or improvements that, upon completion, will satisfy the requirements of the~~

1384 ~~City of Maitland's (CMS) but is not contained in the five year schedule of capital~~

1385 ~~improvements in the City's CIE, (MATS), or Orange County's or the FDOT Annual Work~~

1386 ~~Program and the FDOT Five (5) Year Work Program, where all of the following apply:~~

1387 (a) ~~The City adopts, by resolution or ordinance, a commitment to add the improvement to~~

1388 ~~the schedule of capital improvements in the CIE or long term schedule of capital~~

1389 ~~improvements for the adopted long term CMS no later than the next regularly scheduled~~

1390 ~~update. To qualify for consideration under this section, the proposed improvement must~~

1391 ~~be reviewed by the appropriate jurisdictions and agencies and must be determined to be~~

1392 ~~financially feasible pursuant to §163.3180(16)(b)1, F.S., consistent with the~~

1393 ~~Comprehensive Development Plan, and in compliance with the provisions of this~~

1394 ~~ordinance. Financial feasibility for this section means that additional contributions,~~

1395 ~~payments or funding sources are reasonably anticipated during a period not to exceed~~

1396 ~~ten (10) years to fully mitigate impacts on the transportation facilities. If a~~

1397 ~~transportation facility proposed for the proportionate fair share program is under the~~

1398 ~~jurisdiction of another entity, such as the FDOT or County, the proposed capacity~~

1399 ~~improvement shall be included in the five (5) year Work Program of that jurisdiction or,~~

1400 ~~in the case of the County and when the improvement is not in the Work Program,~~

1401 ~~through a memorandum of understanding, resolution, or ordinance evidencing a~~

1402 ~~commitment to add the improvement to the schedule of capital improvements in the~~

1403 ~~CIE or long term schedule of capital improvements for an adopted long term CMS no~~

1404 ~~later than the next regularly scheduled update of the CIE or work program; and~~

1405 (b) ~~If the funds allocated for the schedule of capital improvements in the CIE are not~~

1406 ~~sufficient to fully fund construction of a transportation improvement required by the~~

1407 ~~CMS, the County and/or City may still enter into a binding proportionate fair share~~

1408 ~~agreement with the applicant. The agreement may authorize construction of that amount~~

1409 ~~of development if the proportionate fair share amount in such agreement is determined~~

1410 ~~to be sufficient to pay for improvements which will, in the opinion of the governmental~~

1411 ~~entity or entities maintaining the transportation facilities, significantly benefit the~~

1412 ~~impacted transportation system. The improvement or improvements funded by the~~

1413 ~~proportionate fair share component must, for each affected local jurisdiction, be~~

1414 adopted into the capital improvements schedule of the CDP or the long-term schedule  
1415 of capital improvements for an adopted long-term concurrency management system at  
1416 the next annual capital improvements element (CIE) update.

1417 (3) Any improvement project proposed to meet the developer's fair share obligation must meet  
1418 design standards of the City or County for locally maintained roadways and those of the  
1419 FDOT for the state and federal highway system.

1420 (a) City may require developer to construct improvements through a Development  
1421 Agreement or Planned Development ordinance to satisfy fair share ordinance  
1422 requirements, consistent and in accordance with Code City of Maitland, Part II, Chapter  
1423 12, Article IV. Road Impact Fees.

1424 (4) Any improvement project proposed to meet the developer's fair share obligation that is  
1425 located within a special district or overlay area must also meet the design standards and  
1426 criteria of said special district or overlay area(s), specifically but not limited to the  
1427 Downtown Maitland Community Redevelopment Area and the Maitland Cultural Corridor,  
1428 including those design standards for City or County locally maintained roadways and those  
1429 design standards of the FDOT for the state and federal highway system.

1430 (5) Any improvement project proposed to meet the developer's fair share obligation through the  
1431 provision of transit capital improvements shall utilize the identified transit needs and  
1432 objectives identified in LYNX'S (COA) for the area affected by the proposed development.  
1433 Transit service improvement projects proposed to meet the developer's proportionate fair-  
1434 share obligation must satisfy LYNX's design standards and guidelines for transit facilities  
1435 and improvements.

1436 (6) Pursuant to Chapter 163.3177, F.S., the CIE includes transportation improvements included  
1437 in the MetroPlan Orlando Transportation Improvement Plan (TIP) to the extent that such  
1438 improvements are relied upon to ensure concurrency and financial feasibility. If the City is  
1439 relying upon scheduled improvements to a County or City facility to ensure concurrency and  
1440 financial feasibility, the scheduled improvements from the County's or an adjacent City's  
1441 Work program shall be included in the CIE of the City of Maitland. All CIEs shall be  
1442 coordinated with the adopted MetroPlan Orlando's Long Range Transportation Plan (LRTP)  
1443 for planning purposes.

1444

1445 Sec. 12-85. Intergovernmental coordination.

1446 (1) In the interest of intergovernmental coordination and to reflect the shared responsibilities for  
1447 managing development and concurrency, the City of Maitland may enter into an  
1448 agreement(s) with one or more adjacent local governments to address cross-jurisdictional  
1449 impacts of development on regional transportation facilities and programs. The agreement  
1450 shall provide for application of the methodology in this section to address the cross-  
1451 jurisdictional transportation impacts of new development.

1452 (2) The City shall coordinate with affected jurisdictions, municipalities and counties, including  
1453 FDOT, regarding mitigation to impacted facilities not under the jurisdiction of the City of  
1454 Maitland. Proportionate fair share contributions should be applied toward the impacted

1455 facility. However, impacted facilities may be maintained by an agency other than the City of  
1456 Maitland (e.g., a county, state, or interstate road within the City limits). Therefore, the City  
1457 will work with other affected agencies in order to establish a procedure for coordinating  
1458 mitigation to impacted facilities that are maintained by another agency. An interlocal  
1459 agreement may be established with other affected jurisdictions, municipalities and counties,  
1460 for this purpose.

1461

1462 ~~Sec. 12-86. Application process.~~

1463 ~~(1) The City's (DRC) shall verify the applicant's satisfaction or lack of capacity to satisfy~~  
1464 ~~transportation concurrency and shall advise the applicant of the determination in writing.~~  
1465 ~~The applicant may request, in writing, through the City's (DRC) the opportunity to satisfy~~  
1466 ~~transportation concurrency through the Proportionate Fair Share Program pursuant to the~~  
1467 ~~requirements of section 12-84.~~

1468 ~~(2) Prior to submitting an application for a proportionate fair Share agreement, a pre-application~~  
1469 ~~meeting shall be held with all affected jurisdictions, municipalities and counties, to discuss~~  
1470 ~~eligibility, application submittal requirements, potential mitigation options, and related~~  
1471 ~~issues. If the impacted facility is a state facility, or part of the (SIS) then the FDOT will be~~  
1472 ~~invited to participate in the pre-application meeting. The appropriate parties for review of a~~  
1473 ~~proposed proportionate fair share agreement would include the jurisdiction maintaining the~~  
1474 ~~transportation facility that is subject to the agreement, if other than the approving~~  
1475 ~~jurisdiction.~~

1476 ~~(3) Eligible applicants shall submit an application to the City that includes an application fee as~~  
1477 ~~listed in the schedule of fees within the City's Land Development Regulations established by~~  
1478 ~~Resolution. The information shall include the following:~~

1479 ~~(a) Name, address and phone number(s) of the owner(s), developer and any authorized~~  
1480 ~~agents;~~

1481 ~~(b) Property location, including parcel identification numbers;~~

1482 ~~(c) Legal description and survey of the property;~~

1483 ~~(d) Project description, include type, intensity, density, and amount of development;~~

1484 ~~(e) Graphic rendering of the proposed project including proposed project tie-ins or links to~~  
1485 ~~existing or proposed transportation facilities;~~

1486 ~~(f) Phasing schedule, if applicable;~~

1487 ~~(g) Description of requested proportionate fair share mitigation method(s);~~

1488 ~~(h) Copy of concurrency application and determination notice from DRC;~~

1489 ~~(i) Methodology (The latest edition of ITE Trip Generation Handbook, and FSUTMS or~~  
1490 ~~other modeling methodology acceptable to the City of Maitland) utilized to determine~~  
1491 ~~additional trips or project impacts upon affected transportation facilities;~~

1492 ~~(j) Any additional information required by the city transportation engineer to verify~~  
1493 ~~impacts or proposed fair share option(s).~~

1494 ~~(4) The City of Maitland's transportation engineer or designee shall review the application and~~  
1495 ~~certify that the application is sufficient and complete within fifteen (15) business days. If an~~  
1496 ~~application is determined to be insufficient, incomplete or inconsistent with the general~~  
1497 ~~requirements of the proportionate fair Share program as indicated in section 12-84, then the~~  
1498 ~~applicant will be notified in writing of the reasons for such deficiencies within fifteen (15)~~  
1499 ~~business days of submittal of the application. If such deficiencies are not remedied by the~~  
1500 ~~applicant within thirty (30) days of receipt of the written notification, then the application~~  
1501 ~~will be deemed abandoned and any fees paid forfeited. The city manager may, at his/her~~  
1502 ~~discretion, grant an extension of time not to exceed sixty (60) days to cure such deficiencies,~~  
1503 ~~provided that the applicant has shown good cause for the extension and has taken reasonable~~  
1504 ~~steps to effect a cure.~~

1505 ~~(5) Pursuant to § 163.3180(16) (e), F.S., proposed proportionate fair share mitigation for~~  
1506 ~~development impacts to facilities on the SIS requires the approval of FDOT. The applicant~~  
1507 ~~shall submit evidence of an agreement between the applicant and the FDOT for inclusion in~~  
1508 ~~the proportionate fair share agreement.~~

1509 ~~(6) When an application is deemed sufficient, complete, and eligible, the applicant shall be~~  
1510 ~~advised in writing and a proposed proportionate fair share obligation and proposed~~  
1511 ~~proportionate fair Share agreement will be prepared by the City and delivered to the~~  
1512 ~~appropriate parties for review, including a copy to the FDOT for any proposed proportionate~~  
1513 ~~fair share mitigation on an FDOT facility including SIS facilities, no later than sixty (60)~~  
1514 ~~days from the date at which the applicant received the notification of a sufficient application.~~  
1515 ~~All parties will have no less than fifteen (15) business days to provide comments on the~~  
1516 ~~proposed mitigation. The City may enter into an agreement with FDOT or a neighboring~~  
1517 ~~jurisdiction, as appropriate.~~

1518 ~~(7) The City shall notify the applicant and any affected governmental agency regarding the date~~  
1519 ~~of the elected body meeting when the agreement will be considered for final approval. No~~  
1520 ~~proportionate fair share agreement will be effective until approved and executed by the City~~  
1521 ~~Council and all parties to the agreement.~~

1522

1523 ~~Sec. 12-87. Determining proportionate fair share obligation.~~

1524 ~~(1) Proportionate fair share mitigation for concurrency impacts may include, but are not limited~~  
1525 ~~to, private funds, contributions of land, and construction of and contribution of facilities.~~

1526 ~~(2) A development shall not be required to pay more than its proportionate fair share, unless the~~  
1527 ~~City, State and County enter into an agreement to reimburse the developer for additional~~  
1528 ~~costs.~~

1529 ~~The proportionate fair share mitigation value, that is, the value of any donated land, or value of~~  
1530 ~~any constructed facility, used to satisfy the mitigation required for the impacted facilities shall be~~  
1531 ~~based on the fair market value of the mitigating contribution and shall not differ regardless of the~~  
1532 ~~method or type of mitigating contribution.~~

1533 ~~(3) The methodology used to calculate an applicant's proportionate fair share obligation shall be~~  
1534 ~~as provided for in Section 163.3180 (12), F.S., as follows:~~

1535 Proportionate Fair Share =  $\sum [(Development\ Trips;sub\sub;)/(SV\ Increase;sub\sub;)] \times$   
1536  $\{Cost;sub\sub;\}$

1537 *Where:*

1538 *Development Trips;sub\sub;* = Those trips from the stage or phase of development under  
1539 review that are assigned to roadway segment "i" and have triggered a deficiency per the  
1540 CMS; only those trips that trigger a concurrency deficiency will be included in the  
1541 proportionate fair share calculation;

1542 *SV Increase;sub\sub;* = Service volume increase provided by the eligible improvement to  
1543 roadway segment "i" per section E;

1544 *Cost;sub\sub;* = Adjusted cost of the improvement to segment "i". Cost shall include all  
1545 improvements and associated costs, such as design, right of way acquisition, planning,  
1546 engineering, inspection, and physical development costs directly associated with  
1547 construction at the anticipated cost in the year it will be incurred.

1548 (4) For the purposes of determining proportionate fair share obligations and the value of  
1549 improvements, the City shall determine improvement costs based upon the actual cost of the  
1550 improvement as obtained from cost estimates contained in the current and latest version of  
1551 the CIE, the Orange County Transportation Construction Program, the FDOT Work  
1552 Program, and the LYNX (COA) Where such information is not available, improvement cost  
1553 shall be determined by an analysis by the jurisdiction maintaining the facility, of costs by  
1554 cross section type that incorporates data from recent projects and is updated annually and  
1555 approved by the jurisdiction. In order to accommodate increases in construction material  
1556 costs, project costs shall be adjusted through time by an inflationary or deflationary index,  
1557 where applicable.

1558 (5) If the City has accepted right of way dedication for the proportionate fair share payment,  
1559 credit for the dedication of the non site related right of way shall be valued on the date of  
1560 the dedication by fair market value established by an independent appraisal approved by the  
1561 City and at no expense to the City. The applicant shall supply a drawing and legal  
1562 description of the land and a certificate of title of the land to the City at no expense to the  
1563 City. If the estimated value of the right of way dedication is less than the City's estimated  
1564 total proportionate fair share obligation for that development, then the applicant must also  
1565 pay the difference. Prior to purchase or acquisition of any real estate or acceptance of  
1566 donations of real estate intended to be used for the proportionate fair share, public or private  
1567 partners should contact the FDOT for essential information about compliance with federal  
1568 law and regulations, where applicable.

1569

1570 Sec. 12-88. Impact fee credit for proportionate fair share mitigation.

1571 (1) Proportionate fair share contributions shall be applied as a credit against any Transportation  
1572 Impact Fees established by ordinance to the extent that all or a portion of the proportionate  
1573 fair share mitigation is used to address the same capital infrastructure improvements

1574 contemplated by the City's Impact Fee ordinance. The determination of an Impact Fee credit  
1575 will be calculated as per the formula below:

1576 
$$\text{Proportionate Fair Share} = \Sigma [(\text{Project VMT})/(\text{Total VMT})] \times [\text{Road Impact Fee Assessed}]$$

1577 Where: Project VMT = New project trips on segment multiplied by the length of the  
1578 segment;

1579 Total VMT = Total project trip ends multiplied by % of new trip factor, multiplied by the  
1580 average trip length for the land use divided by 2;

1581 Road Impact Fee Assessed = The Road Impact Fee assessed is the overall road Impact Fee  
1582 assessed for the total project.

1583 (2) Impact Fee credits for the proportionate fair share contribution will be determined when the  
1584 Transportation Impact Fee obligation is calculated for the proposed development. Impact  
1585 Fees owed by the applicant will be reduced per the Proportionate Fair Share Agreement as  
1586 they become due per the Impact Fee Ordinance. If the applicant's proportionate fair share  
1587 obligation is less than the development's anticipated road Impact Fee for the specific stage or  
1588 phase of development under review, then the applicant or its successor must pay the  
1589 remaining Impact Fee amount to the local government pursuant to the requirements of the  
1590 Impact Fee Ordinance.

1591 (3) The proportionate fair share obligation is intended to mitigate the transportation impacts of a  
1592 proposed development at a specific location. As a result, any road Impact Fee credit based  
1593 upon proportionate fair share contributions for a proposed development cannot be  
1594 transferred to any other location unless provided for within the local Impact Fee ordinance.

1595  
1596 Sec. 12-89. Proportionate fair share agreement.

1597 (1) Upon execution of a Proportionate Fair Share Agreement, the applicant shall receive a  
1598 Certificate of Concurrence from the City. Should the applicant fail to apply for a  
1599 Development Order within twelve (12) months of the execution of the Proportionate Fair-  
1600 Share Agreement, then the Proportionate Fair Share Agreement, shall be considered null and  
1601 void, and the applicant shall be required to reapply. In addition, if the proposed  
1602 development's impacts were the only impacts causing the potential deficient operation of the  
1603 facility, the specific project may be removed from the CIE.

1604 (2) Payment of the proportionate fair share contribution is due in full prior to issuance of the  
1605 final Development Order or recording of the final plat and shall be non-refundable. If the  
1606 payment is submitted more than twelve (12) months from the date of execution of the  
1607 Agreement, then the proportionate fair share cost shall be recalculated at the time of  
1608 payment based on the best estimate of the construction cost of the required improvement at  
1609 the time of payment, pursuant to Section G and adjusted accordingly.

1610 (3) All transportation improvements undertaken by the Developer authorized under this  
1611 ordinance must be completed prior to issuance of a final Development Order, or as

1612 otherwise established in a binding agreement that is accompanied by a satisfactory security  
1613 instrument that is sufficient to ensure the completion of all required improvements.

1614 (4) ~~Dedication of necessary right-of-way for facility improvements pursuant to a proportionate  
1615 fair share agreement must be completed prior to issuance of the final Development Order or  
1616 recording of the final plat.~~

1617 (5) ~~Any requested change to a development project subsequent to a Development Order may be  
1618 subject to additional proportionate fair share contributions to the extent the change would  
1619 generate additional traffic that would require mitigation.~~

1620 (6) ~~Applicants may submit a letter to withdraw from the proportionate fair share agreement at  
1621 any time prior to the execution of the agreement. The application fee, any associated  
1622 advertising costs and any other pass through costs to the City will be non-refundable.~~

1623 (7) ~~The City may enter into proportionate fair share agreements for selected corridor  
1624 improvements to facilitate collaboration among multiple applicants on improvements to a  
1625 shared transportation facility.~~

1626

1627 ~~Sec. 12-90. Appropriation of proportionate fair share.~~

1628 (1) ~~The proportionate fair share shall be placed in the appropriate project account for funding of  
1629 scheduled improvements in the City's CIE, or as otherwise established in the terms of the  
1630 proportionate fair share agreement. At the discretion of the local government, proportionate  
1631 fair share revenues may be used for operational improvements prior to construction of the  
1632 capacity project from which the proportionate fair share revenues were derived.  
1633 Proportionate fair share revenues may also be used as the fifty percent (50%) local match  
1634 for funding under the FDOT (TRIP) program.~~

1635 (2) ~~In the event a scheduled facility improvement is removed from the CIE, and this  
1636 improvement was included in a previous proportionate fair share agreement, then the  
1637 revenues collected for its construction may be applied toward the construction of another  
1638 improvement within that same corridor or sector that would mitigate the impacts of  
1639 development pursuant to the requirements of section 12-84(2)(b).~~

1640 (3) ~~Where an impacted regional facility has been designated as a regionally significant  
1641 transportation facility on the MetroPlan Orlando's Regionally Significant Corridors Map,  
1642 then the City may coordinate with other impacted jurisdictions and agencies to apply  
1643 proportionate fair share contributions and public contributions, to seek funding for  
1644 improving the impacted regional facility under the FDOT TRIP program. Such coordination  
1645 shall be ratified through an interlocal agreement that establishes a procedure for earmarking  
1646 of the developer contributions for this purpose.~~

1647 (4) ~~Where an applicant constructs a transportation facility that exceeds the applicant's  
1648 proportionate fair share obligation calculated under section 12-87, the city shall reimburse  
1649 the applicant for the excess contribution using one or more of the following methods, the  
1650 determination of which shall be the city's sole discretion:~~

- 1651 ~~(a) An impact fee credit account may be established for the applicant in the amount of the~~
- 1652 ~~excess contribution, a portion or all of which may be assigned and reassigned under the~~
- 1653 ~~terms and conditions acceptable to the City.~~
- 1654 ~~(b) An account may be established for the applicant for the purpose of reimbursing the~~
- 1655 ~~applicant for the excess contribution with proportionate fair share payments from other~~
- 1656 ~~future applicants that will produce an impact on the transportation facility.~~
- 1657 ~~(c) The city may compensate the applicant for the excess contribution through a payment~~
- 1658 ~~plan or some combination of means acceptable to the City and the applicant.~~
- 1659

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