

ORDINANCE 2021-\_\_\_\_\_

**AN ORDINANCE AMENDING WALTON COUNTY LAND DEVELOPMENT CODE CHAPTER 3, SECTIONS 3.00.00., 3.01.00, 3.02.00., 3.03.00., 3.04.00 TO SUNSET PROPORTIONATE SHARE AND REPEAL TRANSPORTATION CONCURRENCY; AMENDING SECTION 3.04.00 TO ESTABLISH MOBILITY FEES BASED ON AN ADOPTED MOBILITY PLAN AS A REPLACEMENT OF PROPORTIONATE SHARE AND TRANSPORTATION CONCURRENCY PROVIDING FOR AUTHORITY; SETTING FORTH GENERAL PROVISIONS FOR MOBILITY FEES, DEFINITIONS, PURPOSE, THE MOBILITY PLAN AND MOBILITY FEE TECHNICAL REPORT, AND RULES OF CONSTRUCTION; PROVIDING FOR IMPOSITION AND A MOBILITY FEE SCHEDULE; PROVIDING FOR THE PROCESS FOR REVIEW OF ALTERNATIVE & SPECIAL FEE DETERMINATIONS, CREDITS, ESTABLISHMENT OF MOBILITY FEE BENEFIT DISTRICTS, FUND ACCOUNTS, EXPENDITURES, REFUNDS, EFFECTS ON LAND DEVELOPMENT REGULATIONS, DEVELOPMENT OF AN ADMINISTRATIVE MANUAL AND SERVICE CHARGES, REQUIREMENTS FOR ANNUAL REPORTING, REVIEW AND UPDATES, AGREEMENTS, INTERLOCAL AGREEMENTS, VESTED RIGHTS, AND PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR SCRIVENER'S ERRORS; PROVIDING FOR LIBERAL INTERPRETATION; PROVIDING FOR MODIFICATIONS; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Pursuant to Article VIII, Section (1)(g) of the Florida Constitution and Chapter 125, Florida Statutes, Walton County has broad home rule powers to adopt ordinances to provide for and operate multimodal transportation systems, including bicycle and pedestrian facilities, transit facilities, roadways, intersections and new personal mobility technology within the City; and

**WHEREAS**, Walton County currently has an established transportation concurrency and proportionate share system, which has been one part of an overall growth management program as set forth in the Walton County Comprehensive Plan; and

**WHEREAS**, the Walton County transportation concurrency and proportionate share system is principally focused on vehicular mobility, whereas a mobility plan and mobility fee system takes a comprehensive view on the provision of mobility through walking, biking, transit, motor vehicles and new personal and shared mobility technology; and

**WHEREAS**, Section 163.3180(5)(f), Florida Statutes, encourages local governments to develop tools and techniques including adoption of long-term strategies to facilitate development patterns that support multimodal solutions, adoption of area wide service standards that are not dependent on any single road segment function, and establishing multimodal service standards that rely primarily on non-vehicular modes of transportation where existing or planned community design will provide an adequate level of personal mobility; and

**WHEREAS**, Section 163.3180(5)(i), Florida Statutes, authorizes local governments to adopt an alternative mobility funding system; and

**WHEREAS**, Walton County intends to adopt a mobility fee system, based on the multimodal projects included in a mobility plan, as an alternative mobility funding system consistent with Section 163.3180(5)(i), Florida Statutes; and

**WHEREAS**, Walton County intends to no longer collect proportionate share mitigation from new development and redevelopment within the County; and

**WHEREAS**, Walton County intends to replace its transportation concurrency and proportionate share system with a mobility fee system consistent with the requirements for alternative mobility funding system pursuant with Section 163.3180(5)(i), Florida Statutes; and

**WHEREAS**, the mobility fee system focuses on person travel demand, which includes walking, biking, transit, and motor vehicular trips, generated by new development and redevelopment and the resulting impact on multimodal capacity and accordingly requires the expenditure of revenue derived under that system to be used on multimodal projects identified in an adopted mobility plan that increase multimodal capacity; and

**WHEREAS**, the mobility fee system includes, but is not limited to, considerations of the impact of person travel demand generated by new development and redevelopment on multimodal capacity as well as considerations of the impact of new development on overall mobility within the County; and

**WHEREAS**, Walton County is experiencing growth and new development that necessitates the addition and expansion of transportation facilities for a variety of modes to meet the person travel demands of new development and redevelopment including adequate and efficient multimodal facilities along with different personal and shared mobility options; and

**WHEREAS**, imposition of a mobility fee requiring future growth within the County to contribute its fair share of the cost of growth-necessitated multimodal facilities is necessary and reasonably related to the public health, safety, and welfare of the people of the County; provided that the mobility fee does not exceed the actual amount necessary to offset the demand on multimodal capacity and facilities generated by new development and redevelopment; and

**WHEREAS**, Walton County, in its Transportation Element sets out goals, objectives and policies to develop and maintain a safe, convenient, efficient transportation system which: recognizes present need, reflects the Future Land Use Plan, and provides for safe, efficient intermodal transportation linkages; and

**WHEREAS**, the Board of County Commissioners finds that this ordinance supports and furthers Goal T-1 of the Transportation Element of the Comprehensive Plan which states the County shall, "Provide a safe, cost effective transportation system with adequate transportation facilities and services in place to mitigate impacts from development;" and

**WHEREAS**, the Board of County Commissioners finds that this ordinance supports and furthers Objective T-1.6 of the Transportation Element of the Comprehensive Plan which states, "Walton County shall develop transportation corridors on state and local roads in order that the public health, safety, and welfare may be protected, preserved, and improved by planning for future growth, coordinating land use and transportation planning, and complying with the concurrency requirements of Chapter 163.3180 F.S;" and

**WHEREAS**, the Board of County Commissioners finds that this ordinance supports and furthers Goal T-2 of the Transportation Element of the Comprehensive Plan which states the County shall, "Provide a multi-modal transportation system that serves to increase mobility, promote alternative transportation, and improve the quality of life for the citizens of Walton County;" and

**WHEREAS**, the Board of County Commissioners finds that this ordinance supports and furthers Objective T-2.2 of the Transportation Element of the Comprehensive Plan which states, "Walton County shall promote a multi-modal transportation network within the County to better balance auto, truck, bicycle, pedestrian and basic transit systems to reduce total auto dependence, save energy, reduce greenhouse gas emissions, and reduce excess travel;" and

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

**WHEREAS**, the Board of County Commissioners has determined that the proposed Ordinance adopting a mobility fee will help to preserve and enhance the rational nexus between the need for multimodal person travel demands generated by new development and redevelopment in Walton County and the mobility fees imposed on that development; and

**WHEREAS**, establishment of mobility fee benefit districts, based on the four Planning Areas established in Policy L-1.1.3 of the Future Land Use Element of the Comprehensive Plan, to regulate mobility fee expenditures is the best method of ensuring that the multimodal projects funded by mobility fees have the rational nexus and benefit to the development for which the mobility fees were paid; and

**WHEREAS**, mobility fees collected will be deposited in mobility fee funds for the four mobility fee benefit districts and expended for the purposes set forth herein; and

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

**WHEREAS**, Walton County developed a Mobility Plan and Mobility Fee Technical Report dated April 2021 prepared by NUE Urban Concepts, LLC that provided the technical analysis to determine the mobility fee, based on the multimodal projects identified in the mobility plan, constitutes a proper factual predicate for imposition and expenditure of the mobility fees; and

**WHEREAS**, Walton County has determined that the proposed Ordinance adopting a mobility plan and mobility fee will help to preserve and enhance the rational nexus between the need for multimodal person travel demands generated by new development and redevelopment in the County and the mobility fees imposed on that development; and

**WHEREAS**, the Board of County Commissioners has determined, based upon project development time frames which are often delayed depending upon economic realities, to authorize the refund of collected mobility fees after seven (7) years; and

**WHEREAS**, the Board of County Commissioners has determined that it is in the best interests of the County to replace its transportation concurrency and proportionate share system for transportation facilities with a mobility fee system; and

**WHEREAS**, new development and redevelopment generating an increase in personal travel demand shall not be required to pay both proportionate share and a mobility fee upon the effective date of the mobility fee whereby it is assessed on new development and redevelopment; and

**WHEREAS**, new development and redevelopment that has paid proportionate share mitigation or constructed off-site transportation facilities in lieu of or as a share of a proportionate share obligation shall receive a pro-rated credit, reduced for development which has received a building permit, towards mobility fee assessments; and

**WHEREAS**, Walton County shall assess an administrative service charge and may establish fees, based upon an Technical Report accepted by the Board of County Commissioners, associated with request for mobility fee determinations, special assessments and studies, off-sets and credits, and the administration and implementation, including amendments and updates, to the mobility plan and the mobility fee system, not to exceed actual cost consistent with Section 163.3180, Florida Statutes; and

**WHEREAS**, Walton County shall develop policies and procedures, based upon an Administrative Manual accepted by the Board of County Commissioners, for the administration, implementation, and update of the mobility plan and mobility fee to include, but not limited to, assessments, credits, determinations, imposition, off-sets, and studies; and

**WHEREAS**, A municipality within Walton County may opt-in to the County’s Mobility Fee system through an adopted interlocal agreement that addresses administration, assessments, credits, expenditures, fund accounts, implementation, notice, off-sets, prioritization, studies, and updates; and

**WHEREAS**, the mobility fee shall be adjusted annually, based on the most recently published construction cost inflation factor index established by the Florida Department of Transportation, or the Consumer Price Index should the Florida Department of Transportation cease to publish said index, and the County shall publish the adjusted mobility fees, not more than 90 days before the annual adjustment, consistent with Section 163.31801, Florida Statutes; and

**WHEREAS**, the Board of County Commissioners has noticed, advertised, scheduled and held a public hearing in compliance with Florida Statutes on this proposed Ordinance; and

**WHEREAS**, the Board of County Commissioners has determined that it is advisable and in the public interest to adopt and implement the proposed Mobility Plan and Mobility Fee Ordinance.

**NOW THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of Walton County, Florida, that:

**SECTION I.** Chapter 3, Sections 3.00.00., 3.01.00., 3.02.00., 3.03.00.,3.06.00., and 3.07.00, of the Walton County Land Development Code is amended as follows: [Note: ~~strikethrough~~ language deleted, underline language added]

**3.00.00. GENERALLY**

**3.00.01. Purpose and Intent**

The purpose of this chapter is to describe the requirements and procedures necessary to implement the concurrency provisions of the Walton County Comprehensive Plan and to establish a Mobility Plan and

Fee in Walton County as the County's transportation mitigation program. Specifically, this chapter is intended to ensure the availability of public facilities and services and the adequacy of those facilities at adopted levels of service concurrent with the impacts of development. This intent is implemented by means of a concurrency management system that will measure the potential impact of a development upon the adopted minimum acceptable level of service for potable water, sewer, solid waste, stormwater management, parks and recreation, and roadway facilities as provided in the Walton County Comprehensive Plan. As detailed below and consistent with Chapter 1, less than minor and minor developments require the issuance of a development order by the Director of Planning and Development Services, or designee, before development can commence or any permits can be secured from the county for construction of an approved minor project. A major development requires the rendition of both a final order by the Board of County Commissioners and a development order by the Department of Planning and Development Services before development can commence or any permits can be secured from the county for construction of an approved major project. (Ord. No. 2007-10, Section 1, 7-10-07)

### **3.01.00. GENERAL RULES PREVIOUS PROPORTIONATE FAIR SHARE PROGRAM**

#### **3.01.01. Certificate of Concurrency Required.**

~~A certificate of concurrency shall be required prior to the issuance of any development order, with the exception of those listed in Section 3.02.00. A certificate of concurrency certifies that concurrency is satisfied for a proposed development project, and that a specific amount of facility capacity has been temporarily reserved for that project for a specified period of time, as provided herein. If a development will require more than one development order, the issuance of a certificate of concurrency shall be required as a condition precedent to the issuance of the initial development order for that project.~~

#### **3.01.02. Preliminary, Non-Binding Determination of Concurrency.**

~~At the request of any individual, a courtesy evaluation and written preliminary assessment of concurrency may be performed by the County's transportation concurrency manager to assess the traffic capacity for a potential development project. The individual seeking such a courtesy review shall submit a detailed transportation concurrency analysis for the proposed project to the transportation concurrency manager along with a fee of \$375.00 to cover the costs of the review. Based upon the quality and detail of the analysis provided, and within 30 days of receipt, the traffic concurrency manager shall provide a written assessment of the traffic capacity still available for the proposed project and provide an estimate of the project's potential proportionate fair share, as applicable. Such preliminary determinations by the transportation concurrency manager shall not be binding upon the County, and shall not reserve traffic facility capacity for the reviewed project in the event an application for development approval is subsequently submitted to the County for formal review.~~

#### **3.01.01.03. Expiration of Transportation Certificate of Concurrency for Application for Minor or Major Development; Approval**

**A. General Applicability.** ~~Every application for the approval of a minor or major development must include a transportation concurrency analysis that is consistent with Chapter III of the Land Development Code and the Walton County Transportation Concurrency Management System Methodology and Procedures, as amended, included as Appendix C.3 to this Code and incorporated herein by reference. Transportation concurrency analyses shall be received as part of the application for development approval by the Department of Planning and Development Services (department), and reviewed by the County's transportation concurrency manager. Once an application for minor or major development order approval is determined to be complete, consistent with the requirements of Chapter XI of this Code, the~~

~~transportation concurrency manager shall review the traffic analysis based on the date, and in the order, the complete application was received and logged in by the department.~~

~~If the transportation concurrency manager approves the traffic analysis, the department shall issue the applicant a certificate of concurrency that temporarily reserves transportation capacity for the proposed project in the County's Transportation Concurrency Management System (CMS) database for a six month period. A certificate of concurrency for transportation issued under the County's previous proportionate fair share program shall automatically expire at the conclusion of this six-month period, except as otherwise provided herein. Upon expiration, any traffic capacity reserved for a proposed project by the certificate of concurrency shall be released from reservation and the County's CMS database will be updated to reflect this released, unused capacity.~~

~~In the event the transportation concurrency manager disapproves of an applicant's traffic analysis or determines that the analysis is deficient, the applicant shall have 30 days following notification to revise the analysis and/or correct any deficiencies. Thereafter, any subsequent submittal to revise the analysis or correct any deficiencies shall be treated as re-submittals, and the traffic analysis shall be reviewed based on the date the re-submittal was received and in the order logged in by the department.~~

**B. Less than Minor and Minor Development.** For a minor development as defined in Chapter I of this Code, a certificate of concurrency shall automatically expire six months after it is issued unless:

1. The Technical Review Committee has completed its review of the complete application and provided its comments and recommendations to the director;
2. the director has approved the application for less than minor or minor development approval; and
3. the department has issued a development order for the approved less than minor or minor project. In that circumstance, the certificate of concurrency shall be automatically extended and shall remain valid until the development order expires. A certificate of concurrency shall automatically expire simultaneously with the expiration of the development order, unless:
  - a. The infrastructure improvements committed to secure the development order for the minor development have been fully completed within the two-year period following the issuance of the development order; or
  - b. As applicable, the applicant has timely paid the project's non-refundable proportionate fair share in full accordance with the requirements of Walton County Transportation Concurrency Management System Methodology and Procedures Manual. If either criterion is timely satisfied, the development order shall be deemed vested for traffic concurrency for the approved project.

**C. Major Development.** For a major development as defined in Chapter 1 of this Code, a certificate of concurrency issued under the County's previous proportionate fair share program shall automatically expire six months after it is issued unless:

- (1) The Technical Review Committee has completed its review of the application and provided its comments and recommendations to the director; and
- (2) The director has issued his or her report recommending approval, approval with conditions, or denial of the application to the Planning Commission. In that event, the certificate of concurrency shall be automatically extended for an additional six-month period to facilitate timely review of

the application by the Planning Commission and the Board of County Commissioners consistent with the requirements of this Code, and the board's issuance of a final order. Except for final orders issued for a phased project, as more particularly described below, a final order approving a major development application shall be valid for a period of two years from rendition; and may be renewed for an additional year. A certificate of concurrency for a major development shall automatically expire simultaneously with the expiration of a final order unless:

- a. Within this two-year period the applicant secures the requisite development order for the project and completes all of the site's infrastructure improvements; or
- b. As applicable, the applicant timely pays the project's non-refundable proportionate fair share in full in accordance with the requirements of Walton County Transportation Concurrency Management System Methodology and Procedures Manual. If either criterion is timely satisfied, the development order shall be deemed vested for traffic concurrency for the approved project.

**D. Exception.** Any Final Order that has an expiration date of September 1, 2008 through January 1, 2012, may be extended and renewed for a period of two years following its date of expiration. Final Orders that are extended will continue to be governed under the rules in effect at the time the Final Order was issued. The holder of a valid Final Order eligible for the two-year extension shall notify the County authorizing agency in writing no later than December 31, 2009, and request the extension. If the applicant fails to secure the requisite development order for a major development within two years from rendition of a final order, the certificate of concurrency shall automatically expire at the conclusion of this two-year period. Thereafter, an applicant seeking to secure approval for the project after the expiration of a certificate of concurrency shall be required to submit an updated traffic concurrency analysis to reflect then current conditions, for which a reasonable fee shall be assessed for the cost of the new review. Based on approval of the updated analysis by the traffic concurrency manager, the applicant shall be required to apply for an amended final order from the Board of County Commissioners to address any deficiencies identified in the updated analysis, and to pay the project's additional proportionate fair share, as warranted, as a condition precedent to securing a development order for the project. In the event a minor or major development order is challenged pursuant to F.S. Section 163.3215, the timelines for the expiration of the development order and certificate of concurrency, as detailed above, shall be tolled until all legal challenges are exhausted.

1. Master Development Phased Projects. A final order approving a major development application for a phased project, referred to herein as a "master development", other than a planned unit development, which is addressed in Chapter 2 of this Code, shall be valid for a period of two years from rendition. A certificate of concurrency for a phased project shall automatically expire simultaneously with the expiration of the final order for the master development unless the applicant secures the requisite development order for the project within this two-year period, and
2. Completes the infrastructure for all phases of the master development, as approved; or
3. Pays the master development's non-refundable proportionate fair share in full for all phases of the master development in accordance with the requirements of Appendix C.3; or
4. Completes, at a minimum, the site's infrastructure improvements for the first phase of the approved master development and/or timely pays the master development's non-refundable proportionate fair share for the first phase of the master project, as applicable, in accordance with

the requirements of the Walton County Transportation Concurrency Management System Methodology and Procedures Manual; and

5. Enters into a development agreement in accordance with the requirements of F.S. Sections 163.3220--163.3243, wherein the county and the applicant agree to a schedule for the timely construction and completion of the infrastructure for each remaining phase of the approved master development and/or the timely payment of the non-refundable proportionate fair share for each of the remaining phases of the approved master development. For purposes of this section, "timely completion" of the site's infrastructure means that construction of the infrastructure for each phase of the master development is scheduled to commence, and commences, within one year of completion of the prior phase, and is scheduled to be completed, and is completed, within two years of the scheduled commencement date for that phase. The certificate of concurrency shall expire automatically if any phase of the master development is not timely completed in accordance with the timelines adopted in the development agreement. Upon the expiration of the certificate of concurrency for a master development, any unused traffic capacity reserved by the certificate for the remaining phases of the master project will be released from reservation and the county's CMS database will be updated to reflect this released, unused capacity.
6. Expiration of Transportation Certificate of Concurrency for Preexisting Final Orders. An applicant with a final order issued or rendered by the Board of County Commissioners prior to the date of this amendment, but who has not secured a development order as of this date, shall have traffic capacity temporarily reserved for the project, as approved, for three years commencing on the date of adoption of this amendment, subject to the following conditions and limitations:
  - a. A detailed traffic concurrency analysis was submitted with the application for major development approval which was approved by the transportation concurrency manager, as evidenced by the issuance of a certificate of concurrency and/or the reservation of transportation capacity in the county's Transportation Concurrency Management System concurrent with the issuance or rendition of the final order by the Board of County Commissioners;
  - b. The certificate of concurrency for the approved final order shall be deemed valid for a period of three years from the date of adoption of this amendment;
  - c. The applicant secures the requisite development order for the approved project within this three-year period and completes all of the site's infrastructure improvements; or as applicable, the applicant timely pays the non-refundable proportionate fair share in full for the approved project in accordance with the requirements of the Walton County Transportation Concurrency Management System Methodology and Procedures Manual;
  - d. The certificate shall automatically expire at the end of this three-year period if the applicant fails to secure a development order for the approved project in accordance with the requirements of this Code and this section; and
  - e. Upon the expiration of this certificate of concurrency, any traffic capacity reserved for the project by the certificate of concurrency will be released from reservation and the county's CMS database will be updated to reflect this released, unused capacity. (Ord. No. 2007-10, Section 1, 7-10-07; Ord. No. 2009-04, Section 1, 4-14-09; Ord. No. 2009-15, Section 1, 9-8-09)

### **3.01.02. Burden of Proof**

~~The burden of showing compliance with the adopted levels of service and meeting the concurrency evaluation shall be upon the applicant. The Director of Planning and Development Services will assist in the preparation of the necessary documentation and information. (Ord. No. 2007-10, Section 1, 7-10-07)~~

### **3.02.00. EXEMPTIONS**

Any person seeking an exemption from the terms of this chapter shall submit substantial competent evidence to the Director of Planning and Development Services to demonstrate the entitlement to the exemption. (Ord. No. 2007-10, Section 1, 7-10-07)

### **3.01.04. Exempt Activities**

The following development activities shall be deemed to be exempt from the provisions of this chapter:

**A. Issued development order.** Development with a development order issued on or before the adoption date of this amendment to this Code, if:

1. The project's infrastructure improvements were completed prior to expiration of the development order; or
2. The project's infrastructure improvements substantially commenced and were continuing in good faith toward completion prior to the expiration of the development order to such an extent that any development rights conferred by the unexpired development order have vested. Development rights vest under this section when the Board of County Commissioners makes a determination that the person alleging vested rights:
  - a. Has relied in good faith;
  - b. Has relied upon some act or omission of the government; and
  - c. Has made such a substantial change in position or incurred such extensive obligations and expenses that it would be highly inequitable and unjust to destroy the rights he or she has acquired. It shall be the duty and responsibility of the person alleging vested rights to demonstrate affirmatively the legal requisites of vested rights. The board shall adopt administrative procedures to afford due process to persons alleging vested rights. For purposes of this section, the purchase price of the property, the expense of securing development order approval, or the mere existence of land use or zoning prior to the effective date of this section shall not be determined to vest any development rights.

**B. DRI development order.** Development with a development order for a development of regional impact adopted on or before the adoption date of this Code, unless the development order:

1. Expressly states otherwise;
2. Expires according to its terms and has not been extended;
3. Is amended, but only as to the amended portions of the development order; or
4. Is invalidated in whole or as to the invalidated parts, in part.

~~C. Construction of public facilities that are identified in the capital improvements element of the Walton County Comprehensive Plan that are required in order to achieve level of service standards adopted in the comprehensive plan pertaining to public facilities and services.~~

~~D. De Minimis Developments, i.e., projects of such low intensity or density so as to have a de minimis impact, if any, upon the level of service standards for roadways set forth in the Walton County Comprehensive Plan. For the purposes of this chapter, de minimis developments are defined in Section 6.A of the Walton County Transportation Concurrency Management System Methodology and Procedures Manual as follows:~~

- ~~1. The impact of a single family home on an existing lot of record, or the replacement of an existing dwelling unit when no additional dwelling units are created, will be exempt from the transportation concurrency requirements of this chapter.~~
- ~~2. Developments generating less than five trips during an average weekday PM peak hour will be considered to have a de minimis impact on the Transportation Concurrency Network. However, a PM peak hour trip distribution, consistent with Section 10 of the Walton County Transportation Concurrency Management System Methodology and Procedures Manual will be provided by the Applicant (or conducted by County staff) to adequately account for committed demand in the Walton County Concurrency Management System. These external project trips will be assigned only to the directly accessed segment on the Transportation Concurrency Network. No further review of the transportation impacts of a de minimis development will be required and a final concurrency determination may be issued subject to other provisions contained elsewhere in the Walton County Land Development Code. Specific parameters for defining de minimis impacts on a given roadway segment in the County's Transportation Concurrency Network are defined in Section 11.C.1.a of the Walton County Transportation Concurrency Management System Methodology and Procedures Manual. (Ord. No. 2007-10, Section 1, 7-10-07).~~

### **3.03.00. GENERAL CONCURRENCY REVIEW**

#### **3.03.01. Generally**

Walton County shall use the procedures listed below to determine compliance of an application for a development order with this concurrency management system. At the time of application for a development order, a concurrency evaluation shall be made to determine the availability of the facilities or services required to be concurrent. An applicant for a development order shall provide the county with all information required to enable the concurrency evaluation to be made. Upon receipt of a complete concurrency review application, the Director of Planning and Development Services shall perform the concurrency evaluation for each of the public facilities and services. A concurrency review application shall not be deemed complete until all applicable permits, verification letters or other proof has been submitted pursuant to section 3.03.02 below. (Ord. No. 2007-10, Section 1, 7-10-07)

#### **3.03.02. Level of Service Standards**

The Walton County Comprehensive Plan establishes level of service standards for transportation, drainage, potable water, sanitary sewer and recreation. The Concurrency Review shall evaluate all development projects to ensure compliance with the level of service standards established by the Comprehensive Plan below.

**A. Transportation.** Walton County shall implement a Concurrency Management System, with the application of Transportation Element polices of the Comprehensive Plan and Land Development Code

provisions to ensure adequate provisions to ensure adequate Level of Service (LOS) are maintained on the network as follow:

1. All County roadways within Walton County as identified in the Concurrency Management System shall operate at a peak hour Level of Service D, with the exception of the following constrained roadways:
  - a. CR 30A US 98 on the West End to US 98 on the East End
  - b. CR 2378 Okaloosa County Line to US 98 on the East End
2. All State roadways identified in the Concurrency Management System shall operate at automobile peak hour service D, except State Highway system (SHS) facilities shall operate at peak hour level of standards consistent with Rule 14-94, F.A.C.
- ~~3. Developments that are determined to be creating a level of service deficiency shall be required to contribute a proportionate fair share of the necessary improvements to correct the deficiency.~~

**B. Sanitary Sewer Facilities.** 100 gallons per capita per day (GPCPD). The County shall adopt land development regulations which ensure that existing and projected needs are met through provisions which ensure that development orders are not issued which degrade the level of service standards. Minimum service shall be consistent with Table II, Chapter 10D-6, F.A.C.

**C. Solid Waste.** Disposal Capacity 6 pounds per capita, per day

**D. Drainage Facilities.** Walton County shall maintain a level of service standard, for new and existing development, based on the following stormwater quantity and quality criteria:

Design Storm Frequency and Water Quality Treatment Volumes

Design Storm Frequency and Water Quality Treatment Volumes	<u>ATTENUATION / DESIGN STORM</u>	<u>WATER QUALITY TREATMENT</u>
FACILITY		
Bridges	50 Year	N/A
Canals, ditches, or culverts for drainage external to the development	25 Year	N/A
Cross drains, storm sewers	10 Year	N/A
Roadside swales for drainage internal to the development	10 Year	N/A
Detention/Retention basins with positive outfall	25 Year <sup>1,2</sup>	1" / 0.5" <sup>3,4,5</sup>
Detention/Retention basins without positive outfall	100 Year <sup>1</sup>	1" / 0.5" <sup>3,4,5</sup>

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<sup>1</sup> See Policy I-4.5.8.B

<sup>2</sup> See Policy I-4.5.8.C

<sup>3</sup> See Policy I-4.5.8.D

<sup>4</sup> See Policy I-4.5.8.E

<sup>5</sup> See Policy I-4.5.8.F

**E. Potable Water Facilities.** 100 gallons per capita per day (GPCPD). Consistent with the County's adopted Water Supply Facilities Work Plan (WSFWP) incorporated by reference in the FLUE Policy L-1.14.2, development orders are not issued which degrade the level of service standard. The County hereby adopts a minimum standard of 20 pounds per square inch (psi) and 650 gallons per minute (gpm) for potable water lines, or a higher standard as determined by the County Fire Department to be necessary.

**F. Recreation Facilities.** The County will maintain a minimum of 6.25 acres to 1,000 population level of service for recreation facilities.

### **3.03.02. Evaluation**

~~A. Roads. The Walton County Transportation Concurrency Management System Methodology and Procedures Manual provides details for conducting and reviewing a transportation concurrency analysis.~~

#### B.A. Potable Water

1. **Submittals.** The applicant for a development order shall submit, along with the application for a development order, proof that sufficient capacity exists as demonstrated by one of the following:
  - a. If the service provider is other than an onsite potable water well, documentation will be required from the provider that the project is within its service area and that it has the capacity to serve the project as proposed, at or above the adopted level of service. If the ability of a provider to serve a proposed project is contingent upon planned facility expansion, details regarding such planned improvements shall also be submitted. Prior to the issuance of a final development order by the county, the applicant may be required to provide evidence of a contract with the service provider, indicating the provider's commitment and ability to serve the proposed project; or
  - b. Permits issued by the Northwest Florida Water Management District for a potable water well to serve the development.
  - c. For owner-occupied mobile homes, a notarized affidavit from the applicant that there is an existing functioning potable water well on the site.
2. **Presumption of Available Capacity.** A presumption of available capacity shall be rendered by the Director of Planning and Development Services upon receipt of one of the above.

#### **C. Wastewater**

1. **Submittals.** The applicant for a development order shall submit, along with the application for a development order, proof that sufficient capacity exists as demonstrated by one of the following:
  - a. If the proposed service provider is other than an onsite septic system, documentation will be required from the provider that the project is within its service area and that it has the

capacity to serve the project as proposed, at or above the adopted level of service. If the ability of a provider to serve a proposed project is contingent upon planned facility expansion, details regarding such planned improvements shall also be submitted. Prior to the issuance of a final development order by the county, the applicant may be required to provide evidence of a contract with the service provider indicating the provider's commitment and ability to serve the proposed project; or

- b. All applicable HRS permits for an onsite septic system, pursuant to Rule 10D-6, F.A.C., are obtained.
2. **Presumption of Available Capacity.** A presumption of available capacity shall be rendered by the Director of Planning and Development Services upon receipt of one of the above.

#### **D. Stormwater Management**

1. **Submittals.** The applicant for a development order shall submit, along with the application for the development order, proof that an application has been submitted to the FDEP. Prior to the issuance of a development order, the applicant must provide the following:
  - a. All applicable department of environmental protection (DEP) permits for stormwater management systems are obtained; and/or
  - b. All applicable department of transportation (DOT) permits for stormwater connections, pursuant to Rule 14-86, F.A.C. are obtained; and/or
  - c. All applicable Northwest Florida Water Management District (NFWWMD) permits are obtained.
2. **Presumption of Available Capacity.** A presumption of available capacity shall be rendered by the Director of Planning and Development Services upon receipt of the applicable DEP, DOT, and/or NFWWMD permits.

#### **E. Solid Waste**

~~1.~~ Countywide presumption of available capacity based upon the data and analysis supportive to the Walton County comprehensive plan, adequate capacity exists for estimated demand for solid waste services through the planning period. Therefore, a presumption of available capacity for all development shall be rendered by the Director of Planning and Development Services for the period beginning on the adoption date of this Code and through the submission of the first concurrency management system annual report. At such time, and for each subsequent annual report, the available capacity for solid waste shall be reassessed, and a determination made as to whether the presumption of available capacity is to be continued.

#### **F. Recreation and Open Space**

~~1.~~ Parks and recreation impact fees are used to fund acquisition and expansion of parks and recreation service-related capital assets required to address the additional parks and recreation service demand created by new growth. Developers are required to dedicate a minimum of 5% of the gross area of a residential development or mixed-use development with a residential component for public recreation purposes, which may include public beach access ways. Developers shall have the option of providing land off-site that is of similar value that is usable for park and recreational facility development and that is located within a one-mile radius of the proposed development. Alternatively, the developer of a

residential development or mixed-use development with a residential component shall pay cash in an amount equal to 6% of the assessed land value, as provided by the Walton County Property Appraiser, of the unimproved land.

**3.03.03. Minimum Requirements for Concurrency (Determination of Availability)**

In order to obtain a certificate of concurrency, one of the following conditions must be satisfied for each of the public facilities and services, and such condition given in the certificate of concurrency:

A. **Water and Wastewater.** For potable water, sewer, solid waste & stormwater, at a minimum, provisions in the county Comprehensive Plan that ensure that the following standards will be met will satisfy the concurrency requirement:

1. The necessary facilities and services are in place at the time a development order is issued; or
2. A development order is issued subject to the condition that the necessary facilities and services will be in place when the impacts of the development occur; or
3. The necessary facilities are under construction at the time a development order is issued; or
4. The necessary facilities and services are guaranteed in an enforceable development agreement that includes the provisions of section (A) (1)-(3) above. An enforceable development agreement may include, but is not limited to, development agreements pursuant to F.S. Section 163.3220, or an agreement or development order issued pursuant to F.S. Ch. 380. The agreement must guarantee that the necessary facilities and services will be in place when the impacts of the development occur.

~~B.A. For Parks and Recreation.~~ The concurrency requirement may be satisfied by complying with the Walton County Comprehensive Plan impact fee provision.

~~B. For Roads.~~ The concurrency requirement may be satisfied by complying with the standards above or implementation of one or more mitigation strategies as described and identified in Section 14 of the Walton County Transportation Concurrency Management System Methodology and Procedures Manual. In addition, in areas in which Walton County has committed to provide the necessary public facilities and services in accordance with its five-year schedule of capital improvements, Walton County may satisfy the concurrency requirement for roads by basing this concurrency management system upon an adequate capital improvements program and schedule which, at a minimum, include the following provisions:

1. ~~The capital improvements element and a five-year schedule of capital improvements, in addition to meeting all of the other statutory and rule requirements, must be financially feasible. The capital improvements element and schedule of capital improvements may recognize and include transportation projects included in the first three years of the applicable adopted Florida Department of Transportation five-year work program;~~
  - a. ~~The 5-year schedule of capital improvements must include:~~
    - i. ~~Necessary facilities to maintain the adopted level of service standards to serve the proposed development; and~~
    - ii. ~~Necessary facilities required to eliminate those portions of existing deficiencies which are a priority to be eliminated during the five-year period under the Walton County comprehensive plan's schedule of capital improvements;~~

- iii. ~~— A realistic, financially feasible funding system based on currently available revenue sources that must be adequate to fund the public facilities required to serve the development authorized by the development order and which public facilities are included in the five year schedule of capital improvements;~~
- iv. ~~— The five year schedule of capital improvements must include the estimated date of commencement of actual construction and the estimated date of project completion;~~
- v. ~~— The five year schedule of capital improvements must demonstrate that the actual construction of the road facilities must be scheduled to commence on or before the third year of the five year schedule of capital improvements; and~~

### **3.03.04. Strategies to Rectify Lack of Concurrency**

Should a development not pass the above concurrency evaluation, several strategies may be used to rectify this, including the following:

**A. Level of Service Reduction.** A plan amendment that lowers the adopted level of service standard for the affected facilities and/or services.

**B. Reduction of Development.** A reduction in the scale or impact of the proposed development.

**C. Phased Development.** Phasing of the proposed development.

~~D. Implementation of one or more mitigation strategies as described and identified in Section 14 of Appendix C.3. (Ord. No. 2007-10, Section 1, 7-10-07)~~

### ~~3.04.00~~ **3.03.05. APPEALS**

Appeals related to determinations of concurrency shall be made pursuant to the provisions in section 1.15.09.

### **3.04.00 MOBILITY FEES**

#### **3.03.01 Intent and Purpose**

**A. Imposition.** This Section is intended to impose a mobility fee, assessed at building permit planning review and payable prior to planning review approval of a building permit, in an amount based upon the average amount of new person travel demand attributable to new development and the average cost of providing the multimodal capacity needed to serve such new person travel demand. This Section shall not be construed to authorize imposition of fees related to multimodal project needs attributable to existing development.

**B. Replacement of Transportation Concurrency.** This section is intended to allow new development and redevelopment in compliance with the Comprehensive Plan to share in the burdens of growth. New development and redevelopment shares in this burden by paying a pro rata share of the reasonably anticipated costs of multimodal projects needed to accommodate the person travel demands created by new development and redevelopment as well as by complying with other appropriate development approval conditions. This Section is intended to provide flexibility to address the needs of individual developments that, because of location, timing, or other characteristics, require different treatment in the form of reduced fees or supplemental requirements.

**C. Technical Report.** Towards this end, the mobility fees are replacing Walton County’s transportation concurrency and proportionate fair share system and are based upon the calculation methodology incorporated in the “Walton County Mobility Plan and Mobility Fee Technical Report” dated April 2021, prepared by NUE Urban Concepts, LLC.

**3.04.02 Definitions:** Refer to Chapter 9 of this Code for the definition of terms used in this Section.

**3.04.03 Adoption of Mobility Plan and Mobility Fee Technical Report:** The mobility plan and mobility fee report entitled "Walton County Mobility Plan and Mobility Fee Technical Report – April 2021," prepared by NUE Urban Concepts, LLC, is hereby adopted. This adoption includes, but is not limited to, the following: the multimodal projects included in the mobility plan, the basis of the assumptions, conclusions and findings in such study as to the basis of the mobility fee, the methodology for calculating the mobility fee, the person miles of capacity assigned to multimodal capital improvements and the person travel demand assigned to various land use categories. The study presents the technical analysis and detailed methodology supporting the Walton County Mobility Fees consistent with the multimodal projects included in the 2040 Walton County Mobility Plan. The 2040 Walton County Mobility Plan consist of nine (9) separate plans, a plan of multimodal projects for future consideration, and tables identifying specific multimodal projects reflected on the plans and multimodal projects consisting of services and programs not reflected on the plans, such as wayfinding programs and autonomous transit shuttles. The technical report shall be maintained and made available by the County upon request.

**3.04.04 Mobility Fee Imposition**

**A. Applicability.** The mobility fee imposed by this Section shall apply to new applications for building permits and special use permit applications for a change in use submitted on or after Day Month Year.

1. This Section shall not be imposed on building permits otherwise necessary for:

- a. Room additions, remodeling, rehabilitation or other improvements to an existing structure, provided there is no increase in person trips or person travel demand and no increase in square footage for non-residential uses and no increase in the number of dwelling units for residential uses; or
- b. Room additions, remodeling, rehabilitation or other improvements to an existing structure, provided there is a demonstration the changes are needed to an existing residence to accommodate a mobility impaired person or home care that requires additional space to live or recover for medical reasons; or
- c. Rebuilding of a damaged or destroyed structure, whether voluntary or involuntary, provided there is no increase in the intensity of use or no increase in square footage for non-residential uses and no increase in the number of dwelling units for residential uses; or
- d. A change in occupancy that does not generate additional person trips or person travel demand or any increase in square footage for non-residential uses or increase in the number of dwelling units for residential uses.
- e. Accessory buildings that do not result in an increase in person trips or person travel demand will be exempt from the fee (e.g. detached garage, sheds, parking structures, covered parking).

2. There is hereby imposed upon all impact generating land development activity as herein defined a mobility fee assessed at the time of planning review of building or special use permit application and due prior to the approval of planning review of a building or special use permit, and no building permit or special use permit shall be issued until said mobility fee shall have been paid except as otherwise herein provided. Mobility fees are assessed at the mobility fee rate in effect at the time of permit application. If the permit is for less than the entire contemplated development, the fee shall be computed for the amount of development covered by the permit. The obligations for payment of mobility fees shall run with the land.

a. Any developer, who, prior to the effective date for mobility fees, paid County proportionate may be eligible for a pro-rata credit. The Administrative Manual shall detail the requirements for a proportionate share credit agreement and said agreement shall be required prior to issuance or utilization of any credit. The credit shall also be adjusted to account for service charges, or payment of the service charges based on the amount of credit provided.

b. Additionally, the mobility fee will be imposed for any structure that is altered, expanded or replaced that results in an increase in person trips and person travel demand over the existing land use.

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

d. In the event that there is a change in use that results in a decrease in person travel demand generated by the previously allowed use, the applicant shall not be entitled to a refund or credit.

e. A structure or use of land that is inactive and has been abandoned for a period of more than three (3) years shall not be considered an existing or active use for purposes of calculating mobility fee off-sets. The mobility plan and mobility fee are to be updated every three (3) years and person travel demand is measured on a yearly basis. Therefore, person travel associated with the use is no longer captured in collected data travel demand which is used to plan for future needed mobility projects. The burden of demonstrating the existence of a use or structure shall be upon the fee payer where an off-set request is made.

f. For uses and structures considered to be active, any previous payment of proportionate share or mobility fees under this article may be credited against the appropriate mobility fees owed as a result of a change of use or reestablishing a use of land or structure that has been vacant but not considered abandoned.

g. Any request for credit or offsets of a mobility fee shall be made prior to submittal of a building permit application and shall be resolved prior to issuance of a building permit, unless otherwise stated in a written agreement per the applicant and the County per the requirements detailed in the Administrative Manual. Any off-sets or credits not so claimed shall be deemed waived by the fee payer.

- h. Vacation rentals shall pay a mobility fee per room, except for kitchens and bathrooms or unenclosed accessory spaces. The conversion of any existing residential use shall be required to pay the difference between a mobility fee based on the square footage of the home and the mobility fee based on the number of rooms for the vacation rental.

**B. Mobility Fee Schedule.** Any person who shall initiate any new impact generating land development activity, except as otherwise provided for herein, shall pay a mobility fee, based on the applicable assessment area, as set forth in the following Mobility Fee Schedule:

<b>MOBILITY FEE SCHEDULE</b>			
<b>CATEGORY OF LAND USE &amp; LAND USE CLASSIFICATION</b>	<b>ASSESSMENT AREAS <sup>1</sup></b>		
	<b>South</b>	<b>South Central</b>	<b>North &amp; North Central</b>
<b>RESIDENTIAL / LODGING USES PER UNIT OF MEASURE</b>			
<b>Residential <sup>2</sup> per sq. ft.</b>	<b>\$1.25</b>	<b>\$1.00</b>	<b>\$0.50</b>
<b>Overnight Lodging <sup>3</sup> per room</b>	<b>\$1,907</b>	<b>\$1,526</b>	<b>\$763</b>
<b>Boutique Overnight Lodging <sup>4</sup> per room</b>	<b>\$1,127</b>	<b>\$901</b>	<b>\$451</b>
<b>Recreational Vehicle Park <sup>5</sup> per space or lot</b>	<b>\$1,423</b>	<b>\$1,139</b>	<b>\$569</b>
<b>INSTITUTIONAL USES PER SQ. FT.</b>			
<b>Community Serving <sup>6</sup></b>	<b>\$0.83</b>	<b>\$0.66</b>	<b>\$0.33</b>
<b>Long Term Care <sup>7</sup></b>	<b>\$1.08</b>	<b>\$0.87</b>	<b>\$0.43</b>
<b>INDUSTRIAL USES PER SQ. FT.</b>			
<b>Industrial <sup>8</sup></b>	<b>\$0.70</b>	<b>\$0.56</b>	<b>\$0.28</b>
<b>Commercial Storage <sup>9</sup></b>	<b>\$0.31</b>	<b>\$0.25</b>	<b>\$0.12</b>
<b>RECREATION USES PER UNIT OF MEASURE</b>			
<b>Marina <sup>10</sup> per berth</b>	<b>\$216</b>	<b>\$173</b>	<b>\$86</b>
<b>Outdoor Commercial Recreation <sup>11</sup> per acre</b>	<b>\$1,282</b>	<b>\$1,025</b>	<b>\$513</b>
<b>Indoor Commercial Recreation <sup>12</sup> per sq. ft.</b>	<b>\$1.84</b>	<b>\$1.47</b>	<b>\$0.74</b>
<b>OFFICE USES PER SQ. FT.</b>			
<b>Office <sup>13</sup></b>	<b>\$1.28</b>	<b>\$1.03</b>	<b>\$0.51</b>
<b>COMMERCIAL &amp; RETAIL USES PER UNIT OF MEASURE</b>			
<b>Local Retail <sup>14</sup></b>	<b>\$1.36</b>	<b>\$1.08</b>	<b>\$0.54</b>
<b>Retail <sup>15</sup></b>	<b>\$2.71</b>	<b>\$2.17</b>	<b>\$1.08</b>
<b>Motor Vehicle &amp; Boat Cleaning <sup>16</sup> per stall</b>	<b>\$4,408</b>	<b>\$3,526</b>	<b>\$1,763</b>
<b>Bank Drive-Thru or Free-Standing ATM <sup>17</sup> per lane / ATM</b>	<b>\$7,253</b>	<b>\$5,802</b>	<b>\$2,901</b>
<b>Quick Service Restaurant Drive-Thru <sup>18</sup> per lane</b>	<b>\$18,210</b>	<b>\$14,568</b>	<b>\$7,284</b>
<b>Pharmacy Drive-Thru <sup>19</sup> per lane</b>	<b>\$2,971</b>	<b>\$2,377</b>	<b>\$1,188</b>
<b>Motor Vehicle Fueling Position <sup>20</sup> per fueling position</b>	<b>\$7,391</b>	<b>\$5,913</b>	<b>\$2,956</b>

## **MOBILITY FEE SCHEDULE FOOTNOTES**

<sup>1</sup> Mobility Fee Assessment Areas are based on the Planning Areas establish per Policy L-1.3 of the Future Land Use Element of the Comprehensive Plan. The Mobility Fees shall be assessed at the same rate within the North Walton and North Central Walton Planning Areas. The Mobility Fees shall be assessed at different rates within the South Central Walton and South Walton Planning Areas. The mobility fee rates vary by planning area due to projected increases in person miles of travel, number of Federal and State Roads included in the Mobility Plan, and the multimodal projects established in the Mobility Plan.

<sup>2</sup> Residential mobility fees shall be calculated per sq. ft., excluding the square footage of unconditioned garages and unenclosed porches. Residential includes all types of residential include single family, multi-family, active adult, and mobile homes. The uses fall under the latest edition of the Institute of Traffic Engineers (ITE) Trip Generation Manual Land Use Code 200 Series, excluding Codes 253, 254, 255, 260, and 265. Tiny homes or container homes would also be considered residential.

<sup>3</sup> Overnight Lodging mobility fees shall be calculated per room, excluding kitchens and bathrooms. Lodging includes inns, motels, hotels, resorts, time shares and vacation rentals. The uses fall under the ITE Land Use Code 300 Series. Any residential use considered a vacation rental for purposes of County approvals, permits, or reviews would be considered overnight lodging.

<sup>4</sup> Boutique Overnight Lodging includes unique, one-of-a-kind specialty accommodations, limited to a single lodging operation statewide and nationally. Any specialty accommodations with more than one operation, or affiliated with a national or international hotel chain, or exceeding 100 rooms shall not be considered boutique. A traditional bed & breakfast establishment, not considered a vacation rental, would be considered boutique.

<sup>5</sup> Recreational Vehicle Parks include all uses that accommodate permanent or temporary placement of vehicles on a lot or in a designated space. Parks would include any residential use with permanently affixed wheels that allow for relocation without the need to remove any coverings of wheels or the under carriage, including RVs, travel trailers, and tiny homes on wheels.

<sup>6</sup> Community Serving mobility fees shall be calculated on a per square foot basis and include community uses that are intended to be non-commercial and non-retail. Uses include day care, adult care, places of assembly, places of worship, lodges, clubs, community centers, performing arts centers, community theaters, non-profits, civic minded uses, museums, libraries, and private pre-K to 12 schools. The uses generally fall under the ITE Land Use Code 500 and 600 Series.

<sup>7</sup> Long Term Care mobility fees shall be calculated on a per square foot basis and include assisted living, congregate care, and nursing homes. The uses include ITE Land Use Codes 253, 254, 255 and 620.

<sup>8</sup> Industrial mobility fees shall be calculated on a per square foot basis and include assembly, brewing, distilling, distribution, fabrication, manufacturing, specialty contractors, trades, utilities and warehouses. The uses fall under the ITE Land Use Codes 000 and 100 Series, excluding Code 151.

<sup>9</sup> Commercial storage mobility fees shall be calculated on a per square foot basis and any acreage used for unenclosed material and vehicle storage, sales and display shall be converted to square footage. Commercial storage is commonly referred to as min-warehouses, and include boat, car, and RV storage, along with any other outdoor storage for personal property. Commercial storage uses fall ITE Land Use Code 151.

<sup>10</sup> Marina mobility fees shall be calculated on a per berth or dock basis for the storage of boats. The mobility fee for berths or docks is considered an additive fee, with any office, retail or restaurant uses required to pay the applicable per square foot mobility fee rate for the building. Marina uses fall ITE Land Use Code 420.

<sup>11</sup> Outdoor Commercial Recreation mobility fees shall be calculated on acre basis, including the acreage of any buildings or other vertical structures. Outdoor commercial recreation includes outdoor non-public parks, baseball and soccer fields, driving ranges, golf courses, multipurpose amusement uses (min-golf, go-carts, etc), paintball,

shooting ranges, tennis, racquetball, pickerel, and basketball courts. The uses fall under the ITE Land Use Code 400 Series.

<sup>12</sup> Indoor Commercial Recreation mobility fees shall be calculated on a per square foot basis and include indoor recreation uses such as athletic clubs, bowling, billiards, climbing walls, health and fitness centers, gyms, studios, and trampoline parks. The uses fall under the ITE Land Use Code 400 Series, excluding Codes 440, 444, and 445. Indoor arcades and multifunction entertainment venues would be considered retail uses.

<sup>13</sup> Office mobility fees shall be calculated on a per square foot basis and include general office, professional offices, financial institutions, higher education, medical offices (clinics, dentist, emergency care, hospitals) and veterinary offices. The uses fall under the ITE Land Use Codes 600 and 700 Series, excluding Code 620 and including Codes 911 and 912.

<sup>14</sup> Local Retail mobility fees shall be calculated on a per square foot basis and include locally owned entertainment, personal service, retail, restaurant, and service uses. Local is defined as a commercial or retail use with five or fewer location statewide, no national locations, non-chain and non-franchisee owned. The square footage shall be based on gross sq. ft. under roof or canopy and all areas used for outdoor display, sales, seating, and storage not under roof or canopy.

<sup>15</sup> Retail mobility fees shall be calculated on a per square foot basis and include entertainment, personal service, retail, restaurant, and service uses. The square footage shall be based on gross sq. ft. under roof or canopy and all areas used for outdoor display, sales, seating, and storage not under roof or canopy. The uses fall under the ITE Land Use Codes 800 and 900 Series, excluding Code 911 and 912 and including Codes 440, 444, and 445.

<sup>16</sup> Motor Vehicle & Boat mobility fees shall be calculated based on the number of stalls, lanes, or drive-thrus associated with the cleaning, detailing, washing and waxing of motor vehicles and boats. The mobility fee is an additive fee and is assessed in addition to the retail fee per square foot for any building which will be occupied and be used for interaction with customers. Buildings for storage or maintenance of equipment would be considered ancillary to the use itself and would not be assessed a mobility fee per sq. ft. based on the applicable retail rate.

<sup>17</sup> Bank Drive-Thru Lane or Free-Standing ATM per lane or ATM shall be assessed a mobility fee per drive-thru lane or free-standing ATM. Each bank building shall pay the office rate for the square footage of the building. The mobility fee is an additive fee and is assessed in addition to the office fee per square foot for any bank or financial use building. The free-standing ATM is for an ATM only and not an ATM within or part of a building such as a walk-up ATM directly attached to or located within a bank or another non-financial building, such as an ATM within a grocery store.

<sup>18</sup> Quick Service Restaurant Drive-Thru mobility fees shall be assessed per lane. Any drive-thru associated with a quick service restaurant (aka fast food or fast casual) will be an additive fee in addition to the retail fee per square foot for the quick service restaurant building. The number of drive-thru lanes will be based on the number of lanes present when an individual places and / or picks-up an order. The restaurant drive-thru rate applies for any type of retail building, whether a convenience use, multi-tenant or free-standing building.

<sup>19</sup> Pharmacy Drive-Thru mobility fees shall be assessed per lane. Any drive-thru associated with a pharmacy will be an additive fee in addition to the retail fee per square foot for the pharmacy building. The number of drive-thru lanes will be based on the number of lanes present when an individual places or pick-up a prescription or item.

<sup>20</sup> Vehicle Fueling Position mobility fee shall be assessed per fueling position Rates per vehicle fueling position apply to any retail uses with vehicle fueling, whether a convenience store, gas station, general store, grocery store, supermarket, superstore, variety store, wholesale club or service stations with fuel pumps. In addition, there shall be a separate retail fee per square foot for any building. The number of fueling positions is based on the maximum number of vehicles that could be fueled at one time.

<sup>21</sup> The Administrative Manual shall detail the calculations for each mobility fee land use and the common land uses that fall under each land use category. The Manual shall also detail how additive mobility fees are to be calculated.

### **3.04.05 Mobility Fee Determination.**

**A. Determination.** The mobility fee shall be determined using the land use categories in the Mobility Fee Schedule per Section 3.04.04 B.

**B. Closest Use Determination.** In the event a project involves a land use not contemplated under the mobility fee land use categories adopted in Section 3.04.04 B., the mobility fee administrator shall determine the mobility fee utilizing the closest land use category in the Mobility Plan and Mobility Fee Technical Report adopted in Section 3.04.03 and the Mobility Fee Administrative Manual.

**C. Mixed-Use.** In the event of a development that involves a mixed-use project, the mobility fee administrator shall determine the mobility fee based on each separate mobility fee land use classification included in the proposed mixed-use project.

**D. Assessment.** The mobility fee will be determined using the appropriate use category, land use classification, assessment rate and rate established per Section 3.04.04 B.

**E. Alternative Determination.** Alternative mobility fee or special mobility fee determinations authorized. In the event an applicant believes that the cost to mitigate the impact of the development of improvements needed to serve the applicant's proposed development is less than the fee established in this Section, the applicant may request consideration of and submit an alternative mobility fee or special mobility fee determination request, along with an application and review fee as determined by the County, and support materials to substantiate the request to the mobility fee administrator pursuant to the provisions of this section. If the mobility fee administrator finds that the data, information, assumptions, formulae and methodology used by the applicant to calculate the alternative mobility fee or special mobility fee satisfy the requirements of this Section, the alternative mobility fee or special mobility fee shall be deemed the mobility fee due and owing for the proposed development.

1. The mobility fee administrator is responsible for calculating mobility fees in accordance with the provisions of this Section. If an applicant believes project impacts are lower than justified by the findings of this Section, or believes the proposed use is incorrectly assigned as identified in the mobility fee schedule, or that the assumptions that derive the mobility fee are not applicable to a specific proposed land use, an adjustment to the fees may be requested along with an application and review fee. The mobility fee administrator shall determine whether the request shall be reviewed as either an alternative mobility fee determination or a special mobility fee determination, based upon the impact of the proposed land use on the County mobility. The process for reviewing alternative mobility fee determinations is listed below in Section 3.04.05 E

2. The process for special mobility fee determinations for minor projects with significantly less impacts is found in Section 3.04.05 F.

2. Alternative mobility fee determination.

a. The alternative mobility fee determination shall be based on data, information, assumptions, formulae and methodology contained in this article and the mobility fee study referred to in Section 3.04.04 herein, or independent sources, provided that:

i. The independent source is (an) accepted standard source of transportation engineering or planning data or information; or

- ii. The independent source is a local study carried out by a qualified planner or engineer pursuant to an accepted methodology of planning or engineering; or
  - iii. Where different data, information, assumptions, formulae or methodology are employed such differences shall be specially identified and justified.
- b. An alternative mobility fee calculation shall be undertaken through the submission of an application for review of an alternative mobility fee determination for the mobility fee component for which an alternative mobility fee calculation is requested. A developer shall submit such an application prior to submittal of a building or special use permit application or as otherwise agreed to in a mobility fee agreement. The County may submit such an application for any proposed land development activity for which it concludes the nature, timing or location of the proposed development makes it likely to generate impacts costing substantially more to remedy than the amount of the fee that would be generated by the use of the mobility fee schedule included in this Section.
- c. Within twenty (20) days of receipt of an application for review of an alternative mobility fee determination, the mobility fee administrator, shall determine if the application is complete. If the mobility fee administrator determines that the application is not complete, a written statement specifying the deficiencies shall be sent to the applicant. The application shall be deemed complete if no deficiencies are specified. The mobility fee administrator shall take no further action on the application until it is deemed complete.
- d. When the mobility fee administrator determines the application is complete, the application shall be reviewed and a written decision shall be render in thirty (30) days on whether the mobility fee should be modified, and if so, what the amount should be.
- e. If the mobility fee administrator finds that the data, information, assumptions, formulae and methodology used by the applicant to compute the alternative mobility fee calculation satisfies the requirements of this article, the re-determined mobility fee shall be deemed the mobility fee due and owing for the proposed land development activity. This adjustment in the fee shall be set forth in a mobility fee agreement which shall be entered into pursuant to Section 3.04.17.
- f. A determination by the mobility fee administrator that the alternative mobility fee re-determination does not satisfy the requirements of this article may be appealed to the County Commission.
- g. The applicant shall be responsible for the full costs that the County may incur to review the alternative mobility fee data and methodology which may include consultant and legal costs. Payment will be due at the time of the request for the alternative calculations.
- h. An applicant who submits a proposed alternative mobility fee pursuant to this section and desires the issuance of a building permit or special use permit prior to the resolution of the pending alternative mobility fee shall pay the applicable mobility fee prior to, or at the time said applicant desires the building permit. Said payment shall be deemed paid "under protest" and shall not be construed as a waiver of any rights. Any difference in the

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

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

### **3.04.06 Presumptions, agreements and security requirements.**

**A. Impact.** A proposed development shall be presumed to generate the maximum impact generated by the most intensive use permitted under the applicable land development regulations such as the Comprehensive Plan or zoning regulations or under applicable deed or plat restrictions.

**B. Mobility Fee Agreement.** In lieu of the payment of fees as calculated in Sections 3.04.04 B. or 3.04.05 A. 2. of this Section, any applicant may propose to enter into a mobility fee agreement with the County designed to establish just and equitable fees or their equivalent and standards of service appropriate to the circumstances of the specific development proposed. Such an agreement may include, but shall not be limited to, provisions which:

1. Modify the presumption of maximum impact set forth in subsection A of this section and provide a mobility fee which may differ from that set forth in section 3.04.04 B. or 3.04.05 A. 2. of this Section by specifying the nature of the proposed development for purposes of computing actual impact, provided that the agreement shall establish legally enforceable means for ensuring that the impact will not exceed the impact generated by the agreed upon development;
2. Permit the construction of specific improvements in lieu of or with a credit against the mobility fees assessable and/or pursuant to a payback schedule, allow the developer to recover the actual cost of such improvements in excess of the amount which would have been assessed by this article as subsequent users of such improvements obtained building permits and pay mobility fees.
3. Permit a schedule and method for payment of the mobility fees in a manner appropriate to the particular circumstances of the proposed development in lieu of the requirements for payment of the fees as set forth in Section 3.0.04, provided that security is posted ensuring payment of the fees, in a form acceptable to the County, which security may be in the form of a cash bond, surety bond, irrevocable letter of credit, negotiable certificate of deposit or escrow account, or lien or mortgage on lands to be covered by the building permit.

**C. Mobility Fee Agreement Approval.** Any agreement proposed by an applicant pursuant to this subsection shall be presented to and approved by the County Commission prior to the issuance of a building permit. Any such agreement may provide for execution by mortgages, lienholders or contract purchasers in addition to the landowner, and may permit any party to record such agreement in the official records of Walton County, whichever applicable. The County Commission shall approve such an

agreement only if it finds that the agreement will apportion the burden of expenditure for new facilities in a just and equitable manner.

### **3.04.07 Mobility Fee Credits**

**A. Capital Improvements Program.** Only multimodal projects included in the capital improvements program are eligible for mobility fee credits. An applicant may request that the County Commission add multimodal projects to the capital improvements program. The multimodal projects requested for inclusion in the capital improvements program shall be based upon the mobility plan. The Administrative Manual shall detail the information required to request multimodal projects be added to the capital improvements program for purposes of establishing mobility fee credits. Multimodal projects identified as needs or for future consideration as part of the mobility plan are not eligible for mobility fee.

**B. Request for Credit.** An applicant may request credit against any mobility fee assessed pursuant to this Section in an amount equal to the cost of off-site multimodal projects or contributions of land, money or services for multimodal projects contributed or previously contributed, paid for or committed to by the applicant or his predecessor in interest. The credit is subject to the multimodal project being included in the capital improvements program or the County Commission amending capital improvements program to include the multimodal project. For off-site multimodal projects that are a condition of any development order issued by Walton County for the same development or for excess capacity created by the applicant or his predecessor in interest where such excess capacity is provided at the request of the County Engineer or through a development order, the off-site multimodal projects shall be required to be included in the capital improvements program to receive credit.

**C. Plan and Code Requirements.** Multimodal projects required to meet minimum Comprehensive Plan and Land Development Code requirements are not eligible for any credit. Site access improvements for turn lanes, sidewalks, bike lanes, paths, trails, mobility hubs, round-a-bouts or traffic signals internal to the development, along the adjacent boundary of the development, at development entrances, or immediately adjacent to the development and considered site-related are not eligible for any credit.

**D. Amount of Credit.** The amount of developer contribution credit to be applied to the mobility fee shall be determined according to the following standards of valuation:

1. The appraised fair market land value of the contributed parcel as of the date of building permit, agreement to contribute, or contribution, whichever is earlier, as determined by an M.A.I. appraiser selected and paid for by the applicant. In the event the mobility fee administrator with the appraised value, he may engage another appraiser and the value shall be an amount equal to the average of the two (2) appraisals. No credit should be granted pursuant to this section unless the cost of the improvements were paid for and the contributions made within the last five (5) years; and
2. The cost of off-site multimodal projects shall be based upon documentation certified by a professional engineer or registered planner, and such documentation shall be reviewed and approved by the Count engineer. The County reserves the right to require the developer to competitively bid in accordance with the County Code, in which case the credit shall be limited to the actual cost or 100 percent of the lowest responsible bid amount, whichever is less. All bidders shall be qualified to construct the off-site multimodal projects. The Administrative Manual shall

provide additional detail on the types of documentation to be provided and detail the cost components of multimodal projects that may be eligible for credit; and

3. The Administrative Manual shall detail additional requirements for credit documentation and the options available and process for any excess mobility fee credit.

**E. Proportionate Fair-Share Obligation.** Previous development permits or agreements prior to adoption of the mobility fee ordinance wherein proportionate share mitigation was specified and paid or obligated to be paid shall be binding as to any building permit already issued on land subject to the development permit. Multimodal project required by previous development permits shall not be given a credit unless they meet the requirements of either:

1. Subsection 3.04.07 A; or

2. Are included in a developer agreement with the County; or

3. Meet the requirements and provide documentation detailed in the Administrative Manual; and

4. Any request for credit for proportionate share shall meet the requirements and provide documentation detailed in the Administrative Manual.

**F. Transfer of Credit.** Credit for contributions, payments, construction or dedications of a mobility fee shall not be transferable to another property where a mobility fee is imposed, unless provided for in a developer agreement or as required by Florida Statute. Credit shall first be used for the full development potential of the project for which the development was approved, before any excess credit can be considered for transfer to another property. The establishment, tracking and agreement to allow credit transfer shall be consistent with the processes and requirements detailed in the Administrative Manual.

### **3.04.08 Mobility Fee Benefit Districts**

**A. Intent.** The establishment of mobility fee benefit districts is the best method of ensuring that the mobility fees paid by new development provide a benefit to the new development which paid the mobility fees as required in the benefits test of the dual rational nexus test.

**B. Expenditure.** Mobility fee benefit districts provide a clearly defined boundary for the expenditure of mobility fee revenue. Using the mobility fee benefit districts ensures that funds paid by new development are spent on multimodal projects to accommodate person travel demand within the benefit district, providing a reasonable nexus between the expenditure of mobility fee revenue and the development for which the mobility fees are paid.

**C. Establishment.** Mobility fee benefit districts shall be based on the County's four (4) Planning Areas established in Future Land Use Element Policy L-1.1.3 of the Comprehensive Plan. For any municipality which opt-ins to the County's Mobility Fee system, the geographic boundary of the benefit district shall be the entirety of the municipality, unless otherwise stipulated in an interlocal agreement. Geographic boundaries of municipalities may expand or contract due to annexation or de-annexations.

**D. Expenditure Outside District.** For mobility projects located along a common boundary of a benefit district, funds may be expended from either district. Funding for improvements on US 331, up to ½ a mile beyond district limits may be expended from an adjacent district where the improvement crosses benefit district boundaries. US 331 is the only road presently serving all benefit districts in the County.

**E. Expenditure Outside Municipal Limits.** For any municipality that opt-in to the County's system, mobility fees collected within a benefit district in which the municipality is located may be expended within the municipality per the provisions established in an Interlocal Agreement.

**F. Expenditure Within Municipal Limits.** Mobility Fees may not be expended on multimodal projects within a municipality that elects to not opt-in to the County's system, except for multimodal projects that traverse the municipality and are part of a multimodal project that extends outside municipal limits, or the multimodal project begins outside municipal limits and needs to extend within a municipality to ensure a safe and logical terminus of a multimodal project. The BOCC may also make an individual determination that the funding of a multimodal project within a municipality, that elects to not opt-in to the mobility fee system, is due to direct and attributable impact from development outside a municipality and that the multimodal project provides a mobility benefit to the new development that paid the fee. Funds may only be expended from the benefit district in which the municipality is located and not from adjacent benefit districts, except as provided for in Section 3.04.09 D.

### **3.04.09 Mobility Fee Funds Accounts**

There are hereby-established mobility fee fund accounts for each mobility fee benefit district. For accounting purposes, the mobility fee funds shall be considered special revenue funds. Mobility fees collected from property located in a mobility fee benefit district shall be deposited into the corresponding mobility fee fund. Funds withdrawn from these accounts shall be used solely in accordance with the provision of Sections 3.04.08 and 3.04.10. Any municipality that collects mobility fees shall be required to establish and maintain a mobility fee fund account for each mobility fee benefit district within the municipality per the provisions of an interlocal agreement.

### **3.04.10 Mobility Fee Expenditures**

**A. Expenditure of Funds.** Amounts on deposit in the mobility fee fund account shall be used by the County solely for developing multimodal projects or for financing directly, or as a pledge against bonds, revenue certificates and other obligations of indebtedness, the costs of multimodal projects, or portions thereof, that are located in the mobility fee benefit district from which the funds were collected, that are included in the County's capital improvement element and plan and mobility plan, and benefit new development and redevelopment located within the mobility fee benefit district. The same requirements shall apply to any municipality that opts-in to the County's Mobility Fee system.

**B. Mobility Plan.** All funds shall be used exclusively for the multimodal projects, identified in a mobility plan, for which they were collected.

**C. Prohibition.** The amounts on deposit in the mobility fee fund shall not be used for an expenditure that would be classified as a transportation operation and maintenance expense, unless expressly included in the mobility plan with justification for using funds for operation and maintenance of a multimodal project.

**D. Use of Funds.** Funds withdrawn from these accounts must be used solely in accordance with the provisions of this Section. The disbursement of such funds shall require the approval of the County Commission upon recommendation of the County Administrator. The interlocal agreement with any municipality that opts-in to the County's system shall contain provisions related to expenditure of funds.

**E. Interest Bearing Accounts.** Any funds on deposit not immediately necessary for expenditure shall be invested in interest-bearing accounts. Funds may be pooled for investment provided all income derived from the fund's assets shall be deposited in the applicable fund account.

### **3.04.11 Mobility Fee Refunds.**

**A. Refund Required.** The mobility fees collected pursuant to this Section shall be returned to the then present owner of the development if the fees have not been encumbered or spent by the end of the calendar quarter immediately following seven (7) years from the date the fees were collected, or if the development for which the fees were paid was never begun.

**B. Refund Process.** For purposes of this Section, mobility fees collected shall be deemed to be encumbered or expended on a "first in-first out" basis (i.e., the first money placed in a fee fund shall deemed to be the first money expended or encumbered). The following procedure will apply for requests for eligible refunds:

1. The then present owner must petition the County Commission for the refund within one (1) year following the end of the calendar quarter immediately following seven (7) years from the date on which the fee was received.
2. The petition must be submitted to the County Administrator and must contain:
  - a. A notarized sworn statement that the petitioner is the current owner of the property or his authorized agent; and
  - b. A copy of the dated receipt issued for payment of the fee or other competent evidence of payment; and
  - c. A certificate of title or attorney's title opinion showing the petitioner to be the current owner of the property or his authorized agent; and
  - d. A copy of the most recent ad valorem tax bill; and
  - e. A copy of the building permit or development agreement pursuant to which the mobility fees were paid.
3. Within sixty (60) days from the date of receipt of petition for refund, the County Administrator or his designee shall advise the petitioner and the County Commission of the status of the fee requested for refund. For the purposes of determining whether fees have been spent or encumbered, the first money placed in a trust fund account shall be deemed to be the first money taken out of that account when withdrawals have been made in accordance with Section 3.04.10.
4. When the money requested is still in the trust fund account and has not been spent or encumbered by the end of the calendar quarter immediately following ten (10) years from the date of the fees were paid, the money shall be returned with interest at the rate of one (1) percent per annum.
5. When a refund is requested because construction was never begun, all development order approvals shall have expired, and the applicant shall execute an agreement acknowledging the expiration of development order approval.

6. A request for a refund of mobility fees must be made one (1) year from the issuance of the building permit or special use permit or six (6) months from the expiration of the permit whichever is later only if no development activity has started. The refund amount will be less ten (10) percent of the fees that were ultimately to have been paid, regardless of the amount actually paid, to cover administrative cost. If the applicant does not apply within the time limits stated above, there will be no refund.
7. Any municipality that opts-in to the County's Mobility Fee system shall comply with all refund request within the municipality per the requirements of Section 3.04.11.

#### **3.04.12 Effect on land development regulations**

**A. Land Development Code.** The payment of mobility fees does not ensure nor grant compliance with the County's land development code, including regulations relating to transportation corridor management, access management, substandard roads, secondary access, timing and phasing, and, where applicable, development of regional impact review. However, if such regulations require transportation mitigation for the same impacts addressed through the payment of mobility fees, such regulations shall be deemed to provide for mobility fee credit against imposed mobility fees consistent with state and federal law and this Section.

**B. Land Use.** The listing of a land use in the mobility fee schedule is solely for purposes of establishing the applicable mobility fee schedule for such use, and such listing does not mean that the land use is permitted or available under applicable zoning and Comprehensive Plan requirements. In addition, the listing of the land use in the mobility fee schedule shall not be considered evidence that the land use is appropriate in any land use classification or zoning district.

#### **3.04.13 Administrative Manual and Service Charges.**

**A. Administrative Manual.** The County shall prepare and periodically update a Mobility Fee Administrative Manual that addresses day to day administration and the implementation and update of the mobility plan and fee. The Administrative Manual shall address assessments, credit and off-set request, fee and land use determinations, special studies, fee expenditures and monitoring. The Administrative Manual shall be accepted by resolution of the County Commission.

**B. Service Charge.** The County shall prepare and periodically update Mobility Fee service charges to ensure that the County's general fund does not bear the full burden of administering and implementing the mobility fees; provided that the service charges does not exceed the County's actual costs of administration and implementation of the mobility fee system Per Section 163.31801, Florida Statute. Mobility Fee service charges shall be in addition to the imposed mobility fee and shall account for future updates of the Mobility Plan and Mobility Fee in the service charge determination. The Mobility Fee service charge shall be accepted by resolution of the County Commission.

#### **3.04.14 Annual report**

The County, and any municipality that opts-in to the County's Mobility Fee system, shall comply with all audit requirements of Florida Statutes. The County and shall include in its annual Capital Improvements Plan update an accounting of projects funded by mobility fees. The annual budget shall indicate mobility fee revenues and expenditures.

### **3.04.15 Review and Update**

**A. Mobility Plan and Fee Update.** The Mobility Plan and Mobility Fee shall be updated by the County at least once every three (3) years. The Mobility Plan and Mobility Fee shall be reviewed annually during either the capital improvements budget process or the preparation of the mobility fee annual report. The review shall include a recommendation regarding the need to update the Mobility Plan and Mobility Fee earlier than the three year schedule due to factors such as increased cost, amendments to the Future Land Use Element and Map that result in the need for additional infrastructure, the addition or subtraction of multimodal projects to the Mobility Plan and Capital Improvements Program with a cumulative cost of more than \$20 million, and the update of professional technical reports such as the ITE Trip Generation Manual or Highway Capacity Manual used in the calculation of a mobility fee. The review and updates shall consider all factors utilized in the most recent computation of mobility fees. However, in the event that a full reevaluation and updates are not complete within the required three (3) year period, the last adopted mobility fee shall remain in effect until the reevaluation is complete.

**B. Annual Inflation Adjustment.** To ensure that mobility fees keep pace with inflation, on January 1st of each calendar year, starting in 2022, the mobility fees in section 3.04.04 B. shall increase by the projected rate of inflation for the upcoming calendar year as determined by the most recent FDOT Transportation Cost Report Construction Cost Inflation Factors released on or about August of each calendar year. Should FDOT cease to report, then annual inflation factor adjustments shall be based on either the national Producers Price Index for transportation projects or the Consumer Price Index.

**C. Annual Update.** The County shall update the mobility fees in section 3.04.04 B. on or before September 30th of each calendar year, starting in 2021, and shall advertise the fees in a publication of general circulation available to County residents and businesses or as permitted by State Statute, on the County's website. The advertisement shall be published and/or posted 90 days prior to the increase of the Mobility Fees.

**D. Notice Provided.** The requirements of section 3.04.15 A. and B. shall serve as the statutorily required notice to the public that mobility fees will increase on an annual basis, adjusted for inflation and this Section shall be deemed to address Statutory requirements that notice be provided 90 days prior to an increase in a mobility fee. The notice requirement of Section 3.04.15 B. is provided as a courtesy reminder only.

**E. Required Notice for Increase.** Updates to the Mobility Plan and Mobility Fee that result in an increase in Mobility Fees shall be required to provide 90 days' notice before the increased fees are assessed on new development and redevelopment per Section 163.31801, Florida Statutes.

### **3.04.16 Development Agreements**

**A. Applicability.** An applicant may enter into a development agreement with the County to establish mobility fees or to provide equivalent multimodal projects necessary to serve new development.

**B. Approval.** Any agreement proposed by an applicant pursuant to this section shall be presented to and approved by the County Commission prior to the issuance of a building permit or special use permit. Any such agreement shall provide for execution by any mortgagees, lienholders, or contract purchasers in addition to the landowner, and shall require the applicant to record such agreement in the public records of Walton County. The County Commission shall approve such an agreement only if it finds that the new

agreement will apportion the burden of expenditure for new facilities in a just and equitable manner, consistent with applicable Florida Statutes, case law and this Section.

### **3.04.17 Interlocal Agreements**

The County, and any municipality that opts-in to the County's Mobility Fee system, shall enter into an Interlocal Agreement that addresses, but is not limited to, administration, collection, expenditure, implementation, interpretation, notice, prioritization of multimodal projects, and updates. The County shall prepare and adopt the Interlocal Agreement and transmit to the legislative body of municipalities for adoption.

### **3.04.18 Vested rights**

**A. Request.** It is not the intent of this Section to abrogate, diminish or modify the rights of any persons that have vested rights pursuant to a valid governmental act of the County. An applicant may petition the County Commission for a vested rights determination which would exempt the applicant from the provisions of the Section. The County shall evaluate the petition and submit a recommendation to the County Commission based upon the following criteria:

1. A valid, unexpired governmental act of the County, authorizing the building for which applicants seeks a certificate of occupancy, exists.
2. Expenditures or obligations made or incurred in reliance upon the authorizing act are reasonably equivalent to the fee required by Section 3.04.04 B.
3. That it would be inequitable to deny the applicant the opportunity to occupy a previously approved building under the conditions of the previous approval by requiring the applicant to comply with the provisions of this article.

**B. Developer Agreement Amendment.** If an applicant has previously entered into a development agreement with the County with conditions regarding off-site multimodal projects, the applicant or applicant's successor in interest may request an amendment of the prior development agreement in order to bring the conditions into consistency with this article. Applicant must file a request for such modification with the development review committee within one year of the effective date of this Section.

### **3.04.19 to 3.04.29 - Reserved**

### **3.04.30 Penalty**

Violations of this Section shall constitute a misdemeanor enforceable in accordance with County Code, or by an injunction or other legal or equitable relief in the circuit court against any person violating this Section, or by both civil injunctive and criminal relief.

## **SECTION III. CONFLICT WITH OTHER ORDINANCES OR CODES.**

All Ordinances or parts of Ordinances of the Code of Ordinances of Walton County, Florida, in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

**SECTION IV. SEVERABILITY.**

If any provision of this Ordinance is held to be illegal, invalid, or unconstitutional by a court of competent jurisdiction, the other provisions of this ordinance shall remain in full force and effect.

**SECTION V. SCRIVENER'S ERRORS.**

It is the intention of the Board of County Commissioners of Walton County, Florida and it is hereby provided that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of Walton County, Florida and to that end, the sections of this ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to "section" or "article" or other appropriate designation. Additionally, corrections of typographical errors which do not affect the intent of this Ordinance may be authorized by the County Attorney without public hearing, by filing a corrected or re-codified copy with the Clerk of Courts.

**SECTION VI. ORDINANCE TO BE LIBERALLY CONSTRUED.**

This ordinance shall be liberally construed in order to effectively carry out the purposes hereof which are deemed not to adversely affect public health, safety, or welfare.

**SECTION VII. MODIFICATIONS.**

It is the intent of the Board of County Commissioners of Walton County, Florida, that the provisions of this ordinance may be modified as a result of considerations that may arise during a public hearing. Such modifications shall be incorporated into the final version of the ordinance adopted by the Board.

**SECTION VIII. EFFECTIVE DATE.**

The effective date shall be as provided by law.

Duly enacted by the Board of County Commissioners of Walton County, Florida, at a regularly scheduled public hearing on the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

BOARD OF COUNTY COMMISSIONERS  
WALTON COUNTY, FLORIDA

ATTEST:

By: \_\_\_\_\_

Trey Nick, Chairman  
Board of County Commissioners

\_\_\_\_\_  
Alex Alford  
Clerk of Court