

ORDINANCE

16-8

ORDINANCE 16- 8

AN ORDINANCE TITLED THE HILLSBOROUGH COUNTY MOBILITY FEE PROGRAM ORDINANCE, CREATING A MOBILITY FEE FOR NEW DEVELOPMENT IN UNINCORPORATED HILLSBOROUGH COUNTY; PROVIDING FOR SHORT TITLE AND AUTHORITY; PROVIDING FOR INTENT AND PURPOSE; PROVIDING FOR FINDINGS; PROVIDING FOR ADOPTION OF MOBILITY FEE STUDY; PROVIDING FOR SEVERABILITY; PROVIDING FOR APPLICABILITY AND EFFECTIVE DATE; PROVIDING FOR DEFINITIONS; PROVIDING FOR RULES OF CONSTRUCTION; PROVIDING FOR ADMINISTRATION; PROVIDING FOR EXEMPTIONS AND EXISTING USES; PROVIDING FOR MOBILITY FEES ASSESSED AND COLLECTED, EFFECT ON OTHER REGULATIONS AND APPROVALS; PROVIDING FOR AMOUNT OF MOBILITY FEES; PROVIDING FOR PHASE-IN OF MOBILITY FEES; PROVIDING FOR INDEPENDENT MOBILITY FEE CALCULATION STUDIES; PROVIDING FOR MOBILITY FEE ALTERNATIVE SATISFACTION AGREEMENTS; PROVIDING FOR MOBILITY FEE BENEFIT DISTRICTS; PROVIDING FOR MOBILITY FEE TRUST FUNDS; PROVIDING FOR EXPENDITURES FROM TRUST FUNDS; PROVIDING FOR MOBILITY FEE REFUNDS; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR ANNUAL REVIEW AND AUDIT REQUIREMENTS; PROVIDING FOR PERIODIC UPDATE TO MOBILITY FEE STUDY; PROVIDING FOR ANNUAL INDEXING PROCEDURE; PROVIDING FOR MOBILITY FEE HEARING OFFICER; AND PROVIDING FOR APPEALS.

WHEREAS, it is the intent of the Board of County Commissioners of Hillsborough County to replace the County's transportation impact assessment program with a mobility plan and mobility fee program that allows new impact-generating development to mitigate its proportionate impacts on the mobility network through payment of a one-time regulatory fee, consistent with Florida law; and

WHEREAS, the purpose of the mobility plan and mobility fee program is to link the provision of the mobility facility capital improvements needed to serve new growth to the policies in the Future of Hillsborough Comprehensive Plan; and

WHEREAS, the Board of County Commissioners of Hillsborough County finds that this Ordinance implements the tools and techniques encouraged by the State Legislature in Section 163.3180(5)(i), Florida Statutes; and

WHEREAS, providing a safe and efficient mobility network is in the best interest of the public health, safety, and welfare of the citizens of Hillsborough County;

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA, THAT THERE IS HEREBY ADOPTED "THE HILLSBOROUGH COUNTY MOBILITY FEE PROGRAM ORDINANCE", AS SET FORTH HEREIN, TO BE INCORPORATED INTO THE HILLSBOROUGH COUNTY CODE OF ORDINANCES:

CHAPTER 40 - PLANNING AND DEVELOPMENT

ARTICLE III. – MOBILITY FEES

DIVISION 1. - GENERALLY

- Sec. 40-68. - Short title and authority.
- Sec. 40-69. - Intent and purpose.
- Sec. 40-70. - Findings.
- Sec. 40-71. - Adoption of mobility fee study.
- Sec. 40-72. - Severability.

DIVISION 2. – MOBILITY FEE PROGRAM

- Sec. 40-73. - Applicability; effective date.
- Sec. 40-74. - Definitions.
- Sec. 40-75. - Rules of construction.
- Sec. 40-76. - Administration.
- Sec. 40-77. - Exemptions and existing uses.
- Sec. 40-78. - Mobility fees assessed and collected; effect on other regulations and approvals.
- Sec. 40-79. - Amount of mobility fees.
- Sec. 40-80. - Phase-in of mobility fees.
- Sec. 40-81. - Independent mobility fee calculation studies.
- Sec. 40-82. - Mobility fee alternative satisfaction agreements.
- Sec. 40-83. - Mobility fee benefit districts.
- Sec. 40-84. - Mobility fee trust funds.
- Sec. 40-85. - Expenditures from trust funds.
- Sec. 40-86. - Mobility fee refunds.
- Sec. 40-87. - Enforcement and penalties.
- Sec. 40-88. - Annual review and audit requirements.
- Sec. 40-89. - Periodic update to mobility fee study.
- Sec. 40-90. - Annual indexing procedure.
- Sec. 40-91. - Mobility fee hearing officer
- Sec. 40-92. - Appeals

Appendix A: Independent Mobility Fee Calculation Guidelines and Procedures
Appendix B: Transportation Impact Fee Offset Transferability

ARTICLE III. – MOBILITY FEES

DIVISION 1. - GENERALLY

Sec. 40-68. - Short title and authority.

- (a) This article shall be known and may be cited as “The Hillsborough County Mobility Fee Program Ordinance.”
- (b) The Board of County Commissioners of Hillsborough County is authorized and empowered by law to adopt The Hillsborough County Mobility Fee Program Ordinance by **Ord. 16-___**.

Sec. 40-69. – Intent and purpose.

It is the intent of the Board to replace the County’s transportation impact assessment program with a mobility plan and mobility fee program that allows new impact-generating development to mitigate its proportionate impacts on the mobility network through payment of a one-time regulatory fee, consistent with Florida law. The purpose of the mobility plan and mobility fee program is to link the provision of the mobility facility capital improvements needed to serve new growth to the policies in the Future of Hillsborough Comprehensive Plan.

Sec. 40-70. - Findings.

The Board of County Commissioners of Hillsborough County finds that:

- (1) This article implements the tools and techniques encouraged by the State Legislature in Section 163.3180(5) (i), Florida Statutes; including:
 - a. Adoption of long-term strategies to facilitate development patterns that support multimodal solutions;
 - b. Adoption of area-wide, multimodal level of service standards not dependent on any single road section function;
 - c. Discounting impacts of development in urban areas;
 - d. Establishing a mobility fee program that promotes urban area development, multimodal transportation districts, and affordable housing in appropriate geographic areas of Hillsborough County.
- (2) The provisions of this article are supported by the Future of Hillsborough Comprehensive Plan; ensure that developments of regional impact are assessed for their impacts under Section 380.06, Florida Statutes; are authorized by Section 163.3202(3), Florida Statutes; provide for the coordination of new development and the provision of mobility facility capital improvements; will support the provision of a safe and efficient mobility network, as provided in Section 125.01(1)(l), (m), and (w), Florida Statutes; are in the best interest of the public health, safety, and welfare of the citizens of Hillsborough County; and are necessarily and reasonably related to the public health, safety, and welfare.

- (3) Providing a safe and efficient mobility network is the responsibility of Hillsborough County, as provided in Section 125.01(1)(l), (m), and (w), Florida Statutes, *inter alia*, and is in the best interest of the public health, safety, and welfare of the citizens of Hillsborough County.
- (4) The County's available funding sources are inadequate, based upon present projections, to provide for the construction of those mobility facility capital improvements required to accommodate projected residential and nonresidential growth. Mobility fee revenues collected pursuant to this article shall be used solely to implement the needs of the mobility plan and to mitigate the impact that new residential and nonresidential growth is projected to create on the mobility network. The collection and expenditure of mobility fees, pursuant to this article and the mobility fee study, will not increase the system level of service.
- (5) In order to maintain compliance with the intent and purpose of this article and applicable law, the County had prepared a mobility fee study which calculates the costs for new development to mitigate its impacts on the mobility network, based on localized and most recent data.
- (6) The mobility fee study establishes a rational nexus between the mobility fees assessed by this article and the demand new development is projected to create for new mobility facilities and the benefit that new development will receive through the implementation of the mobility plan.
- (7) The mobility fee assessment and benefit districts established for the assessment and expenditure of mobility fee revenues are based on the travel demand and behaviors evaluated in the mobility fee study.
- (8) The incorporated municipalities in Hillsborough County have established independent means of planning for, providing, and funding mobility facility capital improvements to serve new growth and that, based on the findings of the mobility fee study and the mobility plan, any benefits accruing to the municipalities from the implementation of the County's mobility plan therefore will be incidental and de minimis.
- (9) Mobility fees shall not be used to collect more than is necessary to fund such mobility facilities, shall not be used to deny, time, or phase an application for site plan approval, plat approval, final subdivision approval, building permits, or the functional equivalent of such approvals, provided that the applicant agrees to pay mobility fees required by this article. The mobility fees imposed by this article are based upon the data and methodologies set forth in the mobility fee study, which establishes a fair and proportionate allocation of costs and recognizes past and future payments from new development for mobility facilities on the mobility network.
- (10) This article prohibits revenues collected from mobility fees from being used to replace existing mobility facilities and limits their use only to new capital

improvements necessitated by new development. In addition, mobility fee rates are calculated to exclude existing deficiencies to the mobility network.

- (11) In order to maintain compliance with the intent and purpose of this article and applicable law, the Administrator shall annually review the available sources of revenue and mobility facility needs and identify any non-mobility fee funding sources that have become available for funding improvements required by growth.
- (12) It is fair and equitable to phase in the assessment of mobility fees over a five-year period.
- (13) It is fair and equitable to allow certain previously-approved development projects to proceed for a reasonable period under the provisions of article II of Chapter 40, as provided herein.
- (14) The provisions of this article are in compliance with dual rational nexus test standards, Section 163.3180(5)(i), Florida Statutes, and other requirements of law.

Sec. 40-71. - Adoption of mobility fee study.

The Board hereby adopts the mobility fee study entitled the "Hillsborough County Mobility Fee Study".

Sec. 40-72. - Severability.

If any section, phrase, sentence or portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

DIVISION 2. - MOBILITY FEE PROGRAM

Sec. 40-73. - Applicability; effective date.

- (a) *Generally.* Except as provided in subsection (b), this article shall apply uniformly to impact-generating development within the boundaries of unincorporated Hillsborough County.
- (b) *Effective date.* This article shall become effective upon filing with the Department of State. Assessment of mobility fees as prescribed herein shall begin on January 1, 2017.

Sec. 40-74. - Definitions.

For purposes of this article, the following words shall be defined as provided by this section.

Administrator means the Hillsborough County Administrator or his or her designee.

Bicycle/pedestrian facility means a bicycle/pedestrian capital improvement primarily intended to be utilized by pedestrians and bicycles, including sidewalks, multiuse paths

and trails used for commuting purposes, as well as the necessary infrastructure to support the construction of such facilities, including drainage areas, wetland/floodplain mitigation areas, boardwalks, landscaping, bike racks, shelters/kiosks, benches, and signage.

Board means the Board of County Commissioners of Hillsborough County, Florida.

Capital improvements mean capacity-adding improvements to a mobility facility that have a useful life of at least five (5) years; land; and capital expenses incidental to the completion of capital improvements, which include the costs of planning, engineering, design, permitting, construction inspection, construction, costs of land acquisition, and financing costs. Capital improvements do not include maintenance, operating, marketing/advertising costs associated with the provision of mobility facilities, or site-access improvements.

Development means the act of building, engineering, mining, or other operations in, on, over, or under land or the making of any material change in the use of any building or other land or the subdivision of land into two or more lots or tracts

DRI means a Development of Regional Impact, pursuant to Section 380.06, Florida Statutes.

Grandfathered development projects means projects that have achieved certain, specified stages of development, as provided in section 40-77(a)(6), that shall remain subject to transportation impact fees under article II in lieu of being subject to mobility fees under this article.

Impact-generating development means development that increases the demand on the mobility network over and above the existing use of the structure or land at the time of application for a building permit. Impact-generating development shall not include temporary uses governed pursuant to section 2.02.05 of the Land Development Code. "Demand on the mobility network" includes development that attracts or generates additional demand for mobility facilities on the mobility network in excess of those associated with the existing land use.

Low income means an annual household income between fifty percent (50%) and eighty percent (80%) of the income limit by number of persons per household for the most recent year provided by the State Housing Incentives Partnership (SHIP) program for the Tampa-St. Petersburg-Clearwater Metropolitan Statistical Area.

Mobility facility means a bicycle/pedestrian facility, roadway facility, or transit facility on the mobility network.

Mobility fee applicant or applicant means a person or entity submitting a complete application for a building permit for an impact-generating development after the effective date of this article.

Mobility fee assessment districts means the districts within which mobility fees are assessed, as provided in the mobility fee rate schedule. The map of Mobility Fee Assessment Districts located in section 40-79(b) indicates the rural and urban mobility fee assessment districts, and the location of the Residential Planned 2 (RP-2) designated

areas of the Future of Hillsborough Comprehensive Plan, in which the urban assessment district rate shall be applied for development in conformance with the Planned Village requirements of the Future of Hillsborough Comprehensive Plan and the Hillsborough County Land Development Code, and the rural assessment district rate shall be applied for development that does not comply with these standards.

Mobility fee benefit district means a geographic area within which collected mobility fees are spent and within which approved mobility fee reimbursements may be made, in accordance with the provisions of this article. There are five (5) mobility fee benefit districts, which are illustrated on the map in section 40-83.

Mobility fee hearing officer means a hearing officer authorized to hear appeals of administrative determinations pursuant to this article.

Mobility fee rate schedule means the schedule of mobility fees contained in the mobility fee study, adopted by ordinance of the Board, or as amended pursuant to the indexing procedure described in section 40-90 of this article. The Administrator shall maintain and publish the mobility fee rate schedule and the schedule shall remain on file and available to the public.

Mobility fee study means the study entitled the Hillsborough County Mobility Fee Study, dated April 26, 2016.

Mobility fee trust fund means a fund established and maintained for the deposit and earmarking of mobility fee revenues collected pursuant to the provisions of this article. Transportation trust funds, established by article II of this chapter, are distinct from mobility fee trust funds and shall be governed by the provisions of article II.

Mobility fee alternative satisfaction agreement means an agreement providing for the construction of a capital improvement as an alternative means of satisfying a mobility fee assessment, pursuant to this Sec. 40-82 of this article.

Mobility network means the mobility facilities included in the mobility plan.

Mobility plan means the mobility facility capital improvements included on the County's six-year capital improvement program or the Hillsborough Area Regional Transit Authority's Transit Development Plan, which implement the mobility policies in the County Comprehensive Plan.

Rational nexus means the legal test established by the Florida Supreme Court, upon which all impact fee ordinances in Florida are based. This complex test of constitutionality, which has been explained in greater detail by various court opinions, requires, in summary, that in order to be constitutional, an impact fee assessment ordinance must provide that (1) the amount of impact fees charged bears a reasonable relationship to the cost of providing public facilities necessitated by new development; and (2) the impact fees collected are earmarked and spent to construct public facilities reasonably benefiting the development paying the fee.

Roadway facility means a roadway capital improvement to collectors and arterials, including, but not limited to, through lanes; turn lanes; bridges; drainage facilities incident

to roadway construction; purchase and installation of traffic signalization and control devices; construction of new curbs, medians, and shoulders; land and right-of way for roadway facilities; relocation of utilities to accommodate roadway construction; and construction of such capital improvements in new alignments.

Site-access improvements mean improvements required for an impact-generating development's minimum mobility, safety, and circulation design standards applicable to the development's standard access management, pursuant to federal, state or local laws or regulations. Site-access improvements may include, but are not limited to, acceleration-deceleration lanes, traffic signalization, median cuts or other improvements in the public right-of-way designed to facilitate access, and capital improvements constructed solely to provide access to the project.

Transit facility means transit capital improvements including, but not limited to, buses, park and ride lots, bicycle racks, shelters/kiosks, pull out bays, and regional transit and service facilities, as well as the necessary infrastructure to support the construction of such facilities, such as drainage areas, intersection geometric improvements, wetland/floodplain mitigation areas, landscaping, benches, signage/signalization, and bicycle/pedestrian facilities constructed to provide direct access to a transit stop.

Very low income means an annual household income below fifty percent (50%) of the income limit by number of persons per household for the most recent year provided by the State Housing Incentives Partnership (SHIP) program for the Tampa-St. Petersburg-Clearwater Metropolitan Statistical Area.

Sec. 40-75. - Rules of construction.

For the purpose of administration and enforcement of this article, the following rules of construction shall apply to the text of this article unless otherwise stated herein:

- (1) The word "shall" is always mandatory and not discretionary; and the word "may" is permissive.
- (2) Words used in the present tense shall include the future, one gender shall include all genders, and the singular shall include the plural and the plural the singular, unless the context clearly indicates the contrary.
- (3) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or other similar entity.
- (4) "And" indicates that all connected terms, conditions, provisions, or events shall apply.
- (5) "Or" indicates that the connected items, conditions, provisions or events may apply singularly or in any combination.
- (6) "Either...or" indicates that the connected items, conditions, provisions, or events shall apply singularly, but not in combination.

- (7) Any headings contained in this article are for ease of reference only and shall not be construed as limiting, defining, or otherwise affecting the meaning of any term or condition herein.

Sec. 40-76. - Administration.

- (a) *Interpretation.* The Administrator shall have the authority to make all interpretations of the text and application of this article. Interpretations by the Administrator shall comply with the procedures, forms, official records, and appeal requirements of this article. Administrative interpretations are appealable to a mobility fee hearing officer.
- (b) *False information.* Knowingly furnishing false information to the Administrator or other County official who is charged with the administration of this article on any matter relating to the administration of this article shall constitute a violation hereof, subject to the penalties set forth herein.

Sec. 40-77. - Exemptions and existing uses.

- (a) *Exemptions.* The following shall be exempted from payment of mobility fees under this article. The burden of demonstrating that an application is exempt from a mobility fee obligation under this article shall be on the applicant. Failure by the applicant to demonstrate to the satisfaction of the Administrator that the subject exemption criteria under this subsection are met shall result in the application being assessed mobility fees.
- (1) Certain accessory buildings. The construction of accessory buildings or structures that will not increase demand for mobility facilities on the mobility network, resulting in a change of use classification in the mobility fee rate schedule for the principal building or structure.
 - (2) Certain alterations to structures. Alteration or expansion of a structure where such alteration or expansion will not increase the demand for mobility facilities on the mobility network, resulting in a change of use classification in the mobility fee rate schedule for the existing structure.
 - (3) Replacement of certain destroyed structures. The replacement of a destroyed or damaged building or structure with a new building or structure that will not increase demand for mobility facilities on the mobility network, and therefore will not result in a change of classification in the mobility fee rate schedule over that attributable to the destroyed or damaged structure.
 - (4) Certain public buildings. The construction of publicly owned buildings or structures, which are used solely for governmental purposes.
 - (5) Replacement of existing uses. In those instances when new construction is replacing an existing legally permitted use onsite, the County shall, when computing the mobility fee for the proposed use, subtract the amount representing the impact attributable to the existing use, according to the mobility fee rate schedule. Such existing use exemptions shall be applicable only once, at the time of initial replacement of the existing use, and shall not be "tracked" or carried

forward, or otherwise treated in the same manner as mobility facility contributions pursuant to section 40-82. The Administrator shall prescribe the documentation required as evidence of impacts attributable to the existing use.

- (6) Grandfathered development projects. Projects that have achieved certain specified stages of development prior to the adoption date of this article shall remain subject to transportation impact fees under article II in lieu of being subject to mobility fees under this article. The burden of demonstrating that the eligibility requirements for grandfathering of development projects under this subsection have been met shall be on the applicant. The project types that are eligible for grandfathering, as well as the length of the grandfathering period, are as follows:
- a. Projects approved by April 26, 2016. Any project with an approved preliminary site plan, approved preliminary plat, or approved construction plan, by April 26, 2016 shall qualify as a grandfathered development project. Projects determined by the Administrator to be eligible as grandfathered development projects under this subsection shall remain subject to transportation impact fees under article II until April 26, 2021 or until expiration of the project's certificate of capacity, whichever occurs first; thereafter, the project shall be subject to mobility fees under this article. However, projects grandfathered under this subsection that have single- or two-family residential plats approved by the Board prior to expiration of the project's certificate of capacity shall remain subject to transportation impact fees under article II until April 26, 2021.
 - b. Projects under review by April 26, 2016. Any project that had submitted a completed application, as defined by the Development Review Procedures Manual, for a preliminary site plan, preliminary plat, or construction plan, by April 26, 2016 shall qualify as a grandfathered development project. Projects determined by the Administrator to be eligible as grandfathered development projects under this subsection shall remain subject to transportation impact fees under article II until April 26, 2021 or until expiration of the project's certificate of capacity, whichever occurs first; thereafter, the project shall be subject to mobility fees under this article. However, projects grandfathered under this subsection that have single- or two-family residential plats approved by the Board prior to expiration of the project's certificate of capacity shall remain subject to transportation impact fees under article II until April 26, 2021.
 - c. Specifically approved phases of Developments of Regional Impact (DRI) or development subject to a valid, unexpired binding letter of vested rights issued by the State Land Planning Agency pursuant to Section 380.06, Florida Statutes, by April 26, 2016. Any phase of a DRI which is specifically approved as of April 26, 2016, for which the DRI development order approved pursuant to Section 380.06, Florida Statutes, is current and valid as of April 26, 2016, or any development subject to a valid, unexpired binding letter of vested rights issued by the State Land Planning Agency pursuant to Section 380.06, Florida Statutes, shall qualify as a grandfathered development project. For purposes of this ordinance, a specifically approved phase of a DRI is a phase for which

a transportation analysis of the public transportation facilities needed to accommodate the impacts of the proposed development or phase thereof has been approved by the County and the mitigation for the proposed development or phase of development has been determined and incorporated into the DRI development order. Specifically approved DRI phases and development subject to a valid, unexpired binding letter of vested rights issued by the State Land Planning Agency pursuant to Section 380.06, Florida Statutes, that are determined by the Administrator to be eligible as grandfathered development projects under this subsection shall remain subject to transportation impact fees under article II until the expiration of the specifically approved DRI development order phase or binding letter of vested rights pursuant to Section 380.06, Florida Statutes. Non-statutory time extensions of eligible DRI development orders or phases thereof shall not act to extend the grandfathering period described herein. Failure to maintain compliance with the transportation mitigation obligations of a grandfathered DRI development order shall serve to terminate the grandfathering period described herein, and said DRI development order or phase thereof shall immediately become subject to mobility fee assessment under this article.

- d. Development agreements approved by April 26, 2016. Any development agreement approved pursuant to the Florida Local Government Development Agreement Act, Ch. 163, Florida Statutes, by April 26, 2016 shall qualify as a grandfathered development project. Projects determined by the Administrator to be eligible as grandfathered development projects under this subsection shall remain subject to transportation impact fees under article II until expiration of the development agreement. Non-statutory time extensions of eligible development agreements shall not act to extend the grandfathering period described herein. Failure to maintain compliance with the transportation mitigation obligations of the development agreement shall serve to terminate the grandfathering period described herein, and said development agreement shall immediately become subject to mobility fee assessment under this article.
- e. Development agreements under review by April 26, 2016. Any prospective development agreement pursuant to the Florida Local Government Development Agreement Act, Chapter 163, Florida Statutes, that submitted a completed application, as defined by the Development Review Procedures Manual, by April 26, 2016, and that receives Board approval prior to January 1, 2017, shall qualify as a grandfathered development project. Projects determined by the Administrator to be eligible as grandfathered development projects under this subsection shall remain subject to transportation impact fees under article II until April 26, 2021 or until expiration of the development agreement, whichever occurs first; thereafter, the project shall be subject to mobility fees under this article. Non-statutory time extensions of eligible development agreements shall not act to extend the grandfathering period described herein, and such development agreements shall become subject to mobility fee assessment on April 26, 2021. Failure to maintain compliance with

the transportation mitigation obligations of the development agreement shall serve to terminate the grandfathering period described herein, and said development agreement shall immediately become subject to mobility fee assessment under this article.

- f. Proportionate share agreements approved by April 26, 2016. A project with a proportionate share agreement pursuant to Section 163.3180(5)(h)1., Florida Statutes, under which the proportionate share payment has been received by the County in accordance with the agreement by April 26, 2016 shall qualify as a grandfathered development project. Only the project specified in the proportionate share agreement that was the subject of the transportation analysis submitted as the basis for the proportionate share agreement shall qualify as a grandfathered development project; however, revised projects shall still remain eligible, provided that said revisions do not increase the total AM or total PM number of peak hour trips generated by the development project, and provided that the revised project is in the same land use category (e.g. residential, office, commercial, etc.) as the originally approved development project, as reflected on the mobility fee rate schedule. Projects so qualified shall remain subject to transportation impact fees under article II until April 26, 2021, and thereafter shall be subject to mobility fees under this article.
- g. Proportionate share agreements under review by April 26, 2016. A project that submitted a completed application (defined as an application, an application fee payment, and completed signed and sealed traffic study) for a proportionate share agreement pursuant to Section 163.3180(5)(h)1., Florida Statutes, by April 26, 2016, and that receives Board approval of said agreement and submits its proportionate share payment to the County in accordance with said agreement by January 1, 2017, shall qualify as a grandfathered development project. Only the project specified in the proportionate share agreement that was the subject of the transportation analysis submitted as the basis for the proportionate share agreement qualify as a grandfathered development project; however, revised projects shall still remain eligible, provided that said revisions do not increase the total AM or total PM number of peak hour trips generated by the development project, and provided that the revised project is in the same land use category (e.g. residential, office, commercial, etc.) as the originally approved development project, as reflected on the mobility fee rate schedule. Projects so qualified shall remain subject to transportation impact fees under article II until April 26, 2021, and thereafter shall be subject to mobility fees under this article.
- h. Equity adjustment projects. Any project that had a single- or two-family residential plat approved by the Board between June 2, 2011 and April 26, 2016 shall qualify as a grandfathered development project. Projects determined by the Administrator to be eligible as grandfathered development projects under this subsection shall remain subject to transportation impact fees under article

II until April 26, 2021; thereafter, the project shall be subject to mobility fees under this article.

- i. Building permit under review. Any project that submitted a completed application, in accordance with the Hillsborough County Construction Code Ordinance, for a building permit prior to January 1, 2017 shall qualify as a grandfathered development project. Projects determined by the Administrator to be eligible as grandfathered development projects under this subsection shall remain subject to transportation impact fees under article II until the expiration of the building permit.
- j. Preexisting contracts prior to April 26, 2016. Projects with contracts for the sale or development of land, including contracts that have merged into a deed by operation of law, that were executed prior to April 26, 2016 may qualify as grandfathered development projects under certain circumstances. Projects determined by the Administrator to be eligible as grandfathered development projects under this subsection shall remain subject to transportation impact fees under article II for the duration of the subject contract, or until April 26, 2021 if merged into a deed, and shall thereafter be subject to mobility fees under this article. Extensions or modifications of said contract shall not operate to extend the grandfathering period. In order to qualify as a grandfathered development project under this subsection, all of the following conditions must be met:
 1. The applicant must provide a copy of the executed contract for the sale or development of the subject property to the Administrator, which may be redacted for trade secrets and proprietary confidential business information; and
 2. Said contract was executed prior to April 26, 2016 and is accompanied by evidence indicating such execution. Notarization of signatures with a specified date prior to April 26, 2016 shall be considered sufficient evidence; and
 3. Said contract was entered into in good faith, and was not merely entered into as a means of grandfathering against mobility fee assessment; and
 4. The applicant must submit signed and notarized statements from all parties to the contract that said contract remains valid for the subject property; and
 5. The applicant must submit a signed and notarized statement that earnest money for the transaction has been paid for said contract; and
 6. (i) Said contract specifically addressed the responsibility for payment of impact fees, and the applicant can demonstrate that the assessment of mobility fees under this article will result in an immediate diminishment in the value of the subject contract to the extent of rendering it materially devoid of profit to a contracting party; or (ii) said contract relates to a project that has been rezoned by Hillsborough County before January 1, 2016 for

specific uses that exceed the thresholds for a DRI, and includes non-refundable deposits in excess of \$200,000 that have been paid under said contract before April 26, 2016. Any project meeting the criteria set out in part (ii) of this subsection shall be deemed a grandfathered development project under this article for such period of time as is necessary to avoid impairment of said contract, and as provided in a development agreement approved by the Board by January 1, 2017.

- k. Preexisting County approvals and agreements. Any project with an approval from, or an agreement with, the County that was approved prior to April 26, 2016, and that expressly exempted said project from mobility fee assessment shall qualify as a grandfathered development project and shall remain subject to transportation impact fees under article II for the duration of the subject agreement or approval. Extensions or modifications of any such agreement or approval shall not operate to extend the grandfathering period.
- (b) *Application for exemption or existing use calculation.* A person seeking an exemption allowed by this section shall file an application with the Administrator no later than thirty (30) days after the date of issuance of the building permit. The Administrator may extend this timeframe based upon a finding of excusable delay. Said application shall be in a form prescribed by the County.
- (c) *Denial by administrator.* Should the Administrator deny an application for exemption under this section, the reasons for said denial shall be clearly stated, in writing, to the applicant.
- (d) *Appeals: standard of review.* If the Administrator denies an application for exemption under this section, the applicant may, within thirty (30) days of the date of the Administrator's written denial, appeal said denial to the mobility fee hearing officer pursuant to the procedure described in section 40-92. In said appeal, the applicant must clearly state the grounds on which they are appealing the Administrator's denial, and those grounds must correspond with the review criteria established in this section that were utilized by the Administrator in evaluating the denied application. The mobility fee hearing officer shall perform a *de novo* review of the application for exemption and the Administrator's written denial, and shall reach a final decision based on the applicable provisions of this section.

Sec. 40-78. - Mobility fees assessed and collected; effect on other regulations and approvals

- (a) *Satisfaction of mobility fee obligations.*
 - (1) Payment of fees. Impact-generating development shall be required to pay mobility fees in the amounts set forth in the mobility fee rate schedule unless otherwise exempted by this article.

(2) Alternative satisfaction of mobility fees or offsets in lieu of fees.

- a. *Mobility fee alternative satisfaction agreements.* At the sole discretion of the Board, mobility fees may be satisfied through the alternative process described in section 40-82.
 - b. *Transportation impact fee offsets.* Transportation impact fee offsets issued pursuant to article II may, at the sole option of the offset account holder, be used to satisfy mobility fee assessments, provided that said offsets have been duly registered with the Administrator for purposes of satisfying mobility fee obligations. Registration of impact fee offsets for use under this article must be executed through a form provided by the Administrator. Once said offsets are registered for use under this article, they may only be utilized to satisfy mobility fee assessments under this article and are no longer redeemable to satisfy transportation impact fee assessments under article II, and they shall no longer be subject to the provisions of article II. Once registered for use under this article, impact fee offsets may be used in mobility fee benefit districts, as described in section 40-83, and as provided by Appendix B to this article.
- (b) *Assessment of mobility fees.* At the time of issuance of a building permit, the applicant shall be given a statement indicating the amount of the mobility fees due and payable as provided by this section. At the request of the applicant, the County will provide an estimate of mobility fees due sooner than building permit issuance. However, such estimates are not binding, as they are subject to change as a result of changes in development plans, this article, the fee structure, or in other circumstances that may arise prior to issuance of the building permit.
- (c) *Collection of mobility fees.*
- (1) At certificate of occupancy. Except as provided by subsection (c)(2), mobility fees are due and payable at the time of issuance of the certificate of occupancy for impact-generating development. No certificate of occupancy for any impact-generating development requiring the payment of a mobility fee pursuant to this article shall be issued until payment or verification of an applicable exemption or waiver under this article has been made.
 - (2) At time other than certificate of occupancy. Mobility fees shall be due and payable as follows:
 - a. *Development not requiring certificate of occupancy.* Impact-generating development which does not require a certificate of occupancy shall pay the mobility fee prior to the time of receipt of a building permit; and
 - b. *Release of electrical power before issuance of certificate of occupancy.* Applicants seeking a release of permanent electrical power prior to the issuance of a certificate of occupancy, shall pay the mobility fee in full prior to the time of such release of permanent power. In cases where the Administrator finds that there is a reasonable possibility that the release of temporary electrical power could be used as permanent power without further

authorization by the County, the mobility fee shall be paid prior to release of temporary power.

- c. *Mobile home parks special payment provisions.* In the case of a mobile home park, the owner of the park shall be responsible for the payment of the mobility fee for each lot or space in the mobile home park. The assessment is payable at the time any lot or space is occupied for the first time.
- (d) *Deposit of mobility fee revenues.* Upon collection, the Administrator will ensure that mobility fee revenues are deposited into and maintained in the appropriate mobility fee trust funds as provided in section 40-84.
- (e) *Effect on other regulations and approvals.* Satisfaction of mobility fee obligations pursuant to this section shall satisfy only those obligations imposed by this article, and shall not relieve the mobility fee applicant from the obligation to comply with other County code requirements, including the Land Development Code, or any other applicable statute, ordinance, or regulation.

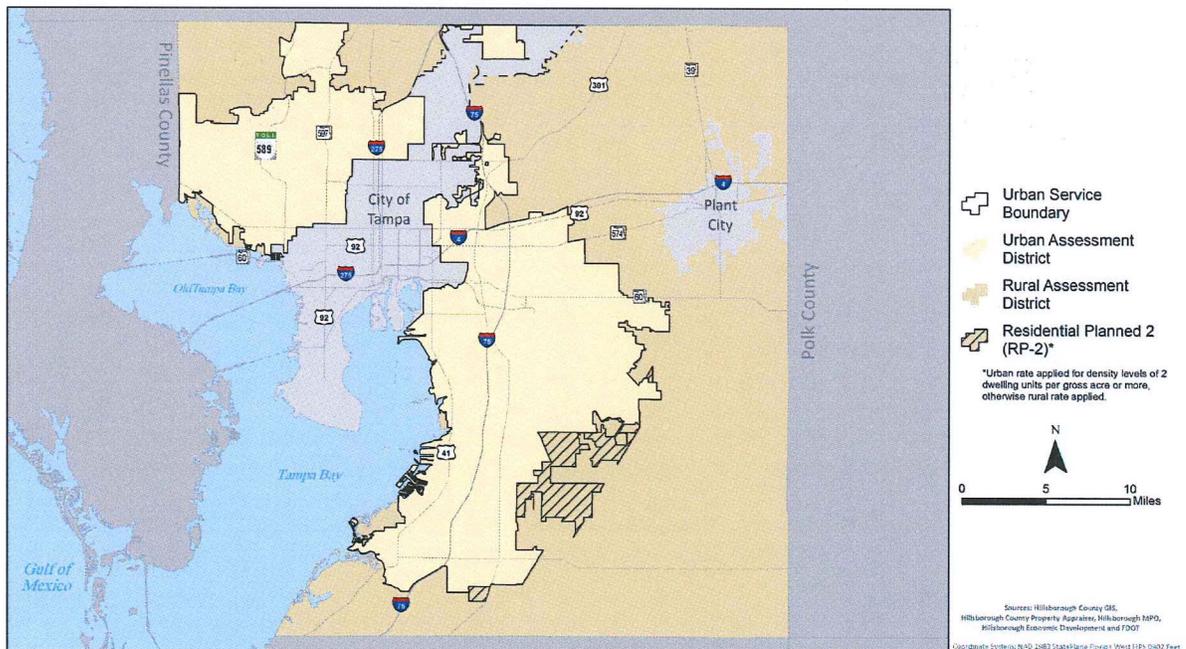
Sec. 40-79. – Amount of mobility fees.

- (a) Generally. Mobility fee applicants required to pay mobility fees pursuant to section 40-78 may satisfy the requirement to pay mobility fees by paying in full the amounts set forth the mobility fee rate schedule or by paying, in full, amounts determined by an independent mobility fee calculation accepted by the County pursuant to section 40-81. Mobility fees are assessed according to the listed land use in the mobility fee rate schedule, which is determined by the Administrator as most similar to the land use proposed.

In order to address the possible approval and implementation of a 0.5% sales tax subsequent to the adoption of this article, the mobility fee study includes five pairs of mobility fee rate schedules in order to account for the change to the credit component portion of the mobility fee study should said sales tax be implemented. Should the 0.5% sales tax not be implemented, the amount of mobility fees assessed pursuant to this article shall be those shown in tables D-1 (urban area) and D-2 (rural area) of the mobility fee rate schedule. Should the 0.5% sales tax be implemented for a period of twenty-five years, the amount of mobility fees assessed pursuant to this article shall be those shown in tables D-3 (urban area) and D-4 (rural area) of the mobility fee rate schedule. Should the 0.5% sales tax be implemented for a period of twenty years, the amount of mobility fees assessed pursuant to this article shall be those shown in tables D-5 (urban area) and D-6 (rural area) of the mobility fee rate schedule. Should the 0.5% sales tax be implemented for a period of thirty years, the amount of mobility fees assessed pursuant to this article shall be those shown in tables D-7 (urban area) and D-8 (rural area) of the mobility fee rate schedule. Should the 0.5% sales tax be implemented for a period of ten years, the amount of mobility fees assessed pursuant to this article shall be those shown in tables D-9 (urban area) and D-10 (rural area) of the mobility fee rate schedule. The amount of mobility fee assessment shall be subject to additional adjustment by the phase-in of mobility fee schedule described in section 40-80, as applicable, and the annual indexing procedure described in section 40-90.

(b) **Mobility fee assessment districts.** In order to effectuate the intent and purpose of this article, mobility fee assessment districts have been established, providing for two assessment rates for development subject to the mobility fee. A mobility fee applicant shall be assessed the fee amount based on whether the proposed impact-generating development is located in the urban assessment district or the rural assessment district, or is a development in conformance with the Planned Village standards of Policy 33.3 of the Comprehensive Plan and Part 5.04.00 of the Land Development Code, within the Residential Planned 2 (RP-2) designated areas. Pursuant to Policy 33.5 of the Comprehensive Plan, development within an RP-2 area which meets the minimum requirements of the Planned Village standards shall be permitted to develop at a density of two (2) dwelling units per gross acre, and Planned Village developments may utilize Transfer of Development Rights to achieve a density of four (4) dwelling units per gross acre, consistent with the Transfer of Development Rights Program outlined in the Comprehensive Plan and Land Development Code. The Residential Planned 2 (RP-2) designated areas are indicated on the Mobility Fee Assessment Districts map in this subsection. Development in conformance with the Planned Village standards of Policy 33.3 of the Comprehensive Plan and Part 5.04.00 of the Land Development Code within the Residential Planned 2 (RP-2) areas shall be assessed the rate applicable to the urban assessment district. Development within the Residential Planned 2 (RP-2) areas that does not conform to the Planned Village standards shall be assessed at the rate established for the rural assessment district.

The fee rates for the rural assessment district and the urban assessment district shall be established in the mobility fee rate schedule.



(c) Land uses not listed in rate schedule.

- (1) Proposed impact-generating development that the Administrator determines not to be listed in the mobility fee rate schedule shall be assigned the trip generation rate of the most similar land use indicated by the most recent edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual to determine the trip generation of the unlisted land use, and such proposed impact-generating development shall be assigned the rate of the land use listed in the mobility fee rate schedule with the most similar trip generation characteristics.
 - (2) If the unlisted land use is not listed in the ITE Manual, then the trip generation rates of the most similar land use in the ITE Manual shall be used to determine the trip generation rate of the unlisted land use or, at the applicant's option, an independent mobility fee calculation study may be performed.
- (d) Low and very low income residential uses. Only residential land uses qualified by the County as low or very low income housing, pursuant to a legally-binding covenant restricting occupancy to qualified residents, shall be eligible to pay mobility fees according to those use classifications in the mobility fee rate schedule.

Sec. 40-80. – Phase-in of mobility fees.

- (a) *Generally.* The Board has determined that it is fair and equitable to phase-in the mobility fee over a five-year period.
- (b) *Schedule of mobility fee phase-in.* The mobility fee shall be phased in according to the following schedule:

Date of Initial Assessment	% of mobility fee assessed
January 1, 2017	40%
January 1, 2018	50%
January 1, 2019	70%
January 1, 2020	80%
January 1, 2021	90%

Sec. 40-81. - Independent mobility fee calculation studies.

- (a) *Basis to request adjustment.* Pursuant to the procedures and criteria of this section, an applicant may submit an independent mobility fee calculation study for (1) an impact-generating development for which the applicant believes the demand component of the mobility fee used in the mobility fee study is inapplicable to the proposed development, or (2) whose proposed impact-generating development is not listed or for which the applicant believes has been incorrectly categorized in the mobility fee rate schedule.

(b) *Procedures.*

- (1) Application. Persons desiring to petition for an adjustment as described above shall file with the Administrator an application and documentation in support of said adjustment no later than sixty (60) days after the date of the issuance of the building permit. This time period may be extended by the Administrator upon a finding of excusable delay. The petition shall be in a form prescribed by the County. Any supporting documentation must be signed and sealed by a qualified professional engineer licensed to practice in the State of Florida.
- (2) Approval. If the Administrator verifies the validity of the submitted information, pursuant to the criteria set forth in subsection (c), then such adjusted data shall be utilized in the computation of the mobility fee for the proposed impact-generating development.

(c) *Criteria for adjustment based on independent study.*

- (1) Generally. A mobility fee applicant may apply for an adjustment to the mobility fee based on the demand component of the mobility fee used in the mobility fee study. The demand component is comprised of trip length, trip rate, and percent new trips and all three demand components must be evaluated. Applications for adjustments based upon other factors may be submitted with supporting documentation, which must be signed and sealed by a qualified professional engineer licensed to practice in the State of Florida. The Administrator has the option to refuse to accept any such application that he or she determines to be unsupported by sound legal reasoning and/or technical data.
- (2) Methodology. The independent mobility fee calculation study must comply with the methodology set forth in Appendix A to this article.
- (3) Qualifications. Independent mobility fee calculations must be prepared by a qualified professional engineer licensed to practice in the State of Florida.

(d) *Covenant to support mobility fee adjustment.* Upon finding that the independent mobility fee calculations submitted by the mobility fee applicant warrant use of the adjusted data shall be utilized in the computation of the mobility fee for the proposed impact-generating development, the Administrator may, in consultation with the County Attorney, require that a covenant running with the land be executed and recorded on the property for which any mobility fee adjustment is sought, by the provisions of this section, in cases where:

- (1) The mobility fee adjustment is based upon a use of land having a lesser impact than that upon which the assessment criteria set forth in this article are based;
- (2) The impact-generating development could be changed to a use having a greater impact than the use upon which the mobility fee adjustment is based, without being required to secure any additional County permit or approval for the change; or
- (3) For such other reasons that make a covenant necessary to ensure compliance with this article and applicable law.

(e) *Independent engineer peer review of denial of request for mobility fee adjustment.* Upon review of a request for adjustment based on the independent mobility fee calculations submitted by the applicant, the Administrator may deny the request for mobility fee adjustment if he or she finds that the criteria for an adjustment set forth in subsection (c) have not been met. If the Administrator denies an applicant's request for a mobility fee adjustment, the applicant may elect to appeal said denial. The applicant's first step in said appeal process shall be to request its application for adjustment be reviewed by an independent traffic engineer appointed by the Administrator to review requests for mobility fee adjustments. The applicant must request an independent engineer's peer review assessment of the Administrator's denial within thirty (30) days following the rendering of said denial. Such requests shall be in writing, on a form provided by the Administrator, and shall be accompanied by payment of a fee in an amount established by the Administrator, a portion of which may be allocated to recovery of the costs associated with the independent engineer's review.

(1) *Independent engineer peer review.* An independent engineer appointed pursuant to this subsection shall conduct a review of the request for a mobility fee adjustment pursuant to the criteria set forth in subsection (c), and shall provide an assessment of the Administrator's determination on a mobility fee adjustment.

a. The Administrator shall retain two or more qualified engineers to review requests for mobility fee adjustments pursuant to this subsection. A qualified engineer for purposes of this subsection shall be a Professional Engineer registered in the State of Florida, who demonstrates a satisfactory background in traffic engineering. The following requirements shall also apply:

1. The independent engineer shall not hold other appointed or elected office or position in government during his or her term.
2. The independent engineer shall not be an employee of Hillsborough County.

b. An independent engineer shall disqualify himself or herself from a particular case when it reasonably appears that he or she has a conflict of interest. When the independent engineer disqualifies himself or herself, the case shall be randomly assigned to another independent engineer retained by the Administrator, if available. In the event all appointed independent engineers disqualify themselves for a particular matter, the Administrator shall engage an independent engineer otherwise qualified to review the request pursuant to this subsection.

(2) *Mobility fee hearing officer review of appeal.* Following completion of the independent engineer's review of a request for a mobility fee adjustment pursuant to this section, the Administrator shall review the independent engineer's assessment. If the Administrator is satisfied with the independent engineer's findings, the Administrator may determine that the independent engineer's assessment supports the applicant's requested mobility fee adjustment, and grant

the adjustment. If the Administrator finds that the independent engineer's assessment does not support the acceptance of the requested mobility fee adjustment, the Administrator shall render a written decision denying the adjustment, and the applicant may appeal said denial in the same manner as a decision of the Administrator pursuant to Section 40-92.

- (3) *Board review of appeal.* For purposes of appeals of independent mobility fee calculation studies only, an applicant may appeal a decision of the mobility fee hearing officer denying a mobility fee adjustment to the Board. An applicant wishing to appeal a mobility fee hearing officer's denial of a mobility fee adjustment to the Board must file a written appeal with the Administrator within thirty (30) days of the mobility fee hearing officer's denial. The Board hearing of the appeal of the mobility fee hearing officer's denial of the mobility fee adjustment shall be conducted as a quasi-judicial proceeding, and the evidence to be reviewed by the Board shall be limited to the applicant's application documentation in support of their request for mobility fee adjustment that was initially submitted to the Administrator, the Administrator's denial of said application, the independent engineer's peer review assessment, and the decision of the mobility fee hearing officer. No party shall communicate ex parte with any Board member about the appeal. The scope of the Board's review at the appeal hearing shall be a review for error on the part of the Administrator. At the close of the appeal hearing, the Board shall either uphold the mobility fee hearing officer's denial of the mobility fee adjustment or, upon a finding of error on the part of the Administrator, shall grant the petition for the mobility fee adjustment pursuant to the independent mobility fee calculation study that was submitted by the applicant.

Sec. 40-82. – Mobility fee alternative satisfaction agreements.

(a) *Generally.*

- (1) At the sole discretion of the County, an applicant may elect to construct, pay for, or contribute, a qualified capital improvement or right-of-way contribution to a mobility facility in the mobility network in order to satisfy its mobility fee obligation on a dollar-for-dollar basis against the value of said contributed, qualified capital improvement.
- (2) *Article II impact fee offsets distinguished.* Projects receiving impact fee offsets for in-kind contributions pursuant to sections 40-59 and 40-60 of article II are ineligible for the alternative satisfaction of mobility fees established by this section. Except as provided by section 40-78(a)(2)b., impact fee offsets issued pursuant to section 40-59 and 40-60 are governed solely according to the applicable provisions of article II.

(b) *Application, review, and consideration procedure.*

- (1) *Application.* A project applicant who wishes to construct, pay for, or contribute capital improvements in lieu of paying mobility fees shall submit a request to enter into a mobility fee alternative satisfaction agreement to the Administrator on an

application form provided by the County, including any applicable application fee. The Administrator shall prescribe all requirements necessary for a completed application.

(2) *Review and consideration.*

- a. Completeness review. The Administrator shall have thirty (30) days from receipt of the application to determine if it is complete. If the application is found to be incomplete, the Administrator shall notify the applicant in writing, describing any additional information required by the Administrator to complete the application review. If an applicant fails to submit the additional requested information to the Administrator within thirty (30) days of the Administrator's request, the application shall be considered withdrawn. The Administrator will not process the application until the Administrator determines that the application is complete.
- b. Substantive review and draft agreement. Once it is deemed complete, the Administrator will review the application to determine whether it meets the requirements of this article and whether the delivery of the proposed capital improvement from the applicant is recommendable in lieu of the collection of mobility fees. If the Administrator determines that the application is recommendable, the applicant and the Administrator shall prepare a draft mobility fee alternative satisfaction agreement for review by the Board. Said agreement must provide, at a minimum, a detailed description and projected value of the capital improvement or land proposed to be contributed by the applicant.
- c. Board review and authorization. The Board shall review the draft mobility fee alternative satisfaction agreement at a public meeting, and shall approve or deny said application. The Board may impose additional conditions upon any approval, provided the applicant agrees to such conditions at the public meeting. Final approval of any mobility fee alternative satisfaction agreement shall be at the sole discretion of the Board.

(c) *Eligibility and valuation of contributions.*

- (1) *Contributions eligible for agreement.* Only proposed contributions to the mobility plan may be eligible for consideration for a mobility fee alternative satisfaction agreement.
- (2) *Valuation of eligible contributions.* The valuation criteria of this subsection shall apply to any eligible capital improvement or land contribution proposed for a mobility fee alternative satisfaction agreement.
 - a. *Land contributions.* The value of eligible land contributions and right-of-way shall be based on: the value at the date of dedication, as determined by the County's Real Estate Department using processes approved by the Board; or a previously agreed-upon value. Right-of-way needed for access or to allow for development of a particular site, such as interior subdivision streets or entrance

roads, are considered site-access improvements and shall not be eligible for a mobility fee alternative satisfaction agreement.

b. *Capital improvement contributions.*

1. Regardless of the original estimated cost of construction, any reimbursement under this section must be based on actual, reasonable, documented construction costs for the approved capital improvements, certified by an engineer and approved by the County in accordance with the County's engineering procedures.
2. Actual construction costs may include costs directly related to construction, such as design and engineering costs and the costs of securing necessary permits, if any. Roadway facilities that have not received prior approval from the County shall have the value for design costs limited to a maximum of ten percent of the construction cost for a roadway project, or 20 percent of the construction costs of an isolated intersection. Indirect costs, including, but not limited to, financing costs, catastrophic losses due to acts of God or nature, and losses resulting from the negligence by the engineer, contractor, etc., shall not be eligible for purposes of a mobility fee alternative satisfaction agreement.

(d) *Timing of alternative satisfaction of mobility fees.*

- (1) Mobility fees required by section 40-78(a) for impact-generating developments may be alternatively satisfied up to the full amount of the mobility fee assessment.
- (2) Each time a certificate of occupancy is issued for a building permit in a development for which a mobility fee alternative satisfaction agreement has been approved, the established value of the dedicated and accepted capital improvement shall be applied against the mobility fee assessment, as determined in this article, on a dollar for dollar basis, up to the full value of the contributed capital improvement or the mobility fee, whichever is lower.

a. *Value of eligible, contributed capital improvement less than mobility fee assessment.* If the established value of the contributed capital improvement, as calculated pursuant the provisions of this article, is less than the applicable mobility fee assessment for the project, as calculated pursuant the provisions of this article, then the difference shall be payable as provided in Section 40-78(c)(1).

b. *Value of eligible, contributed capital improvement equal to mobility fee assessment.* If the value of the contributed capital improvement, as calculated pursuant the provisions of this article, is equal to the applicable mobility fee assessment for the project, as calculated pursuant the provisions of this article, then the contributed capital improvement shall fully satisfy the mobility fee assessment.

(e) *Reimbursements for capital improvements in excess of mobility fee assessment.*

- (1) *Generally.* At its sole discretion, the Board may approve, through a mobility fee alternative satisfaction agreement, reimbursements to an applicant for an eligible, contributed capital improvement whose value exceeds the applicant's mobility fee assessment. Should the Board opt to reimburse an applicant using mobility fee funds, said funds must be paid from the trust fund for mobility fee benefit district where the contributed capital improvement or land is located.
- (2) *Criteria and timing.* Reimbursements for contributed capital improvements whose value exceeds the applicant's mobility fee obligation shall only be made through a mobility fee alternative satisfaction agreement approved by the Board, and only after consideration by the Board of the following factors, to be provided by the Administrator:
 - a. The nature and location of the proposed construction, payment, or contribution of a mobility facility;
 - b. The current and reasonably anticipated availability of reimbursement funding sources;
 - c. The projected completion date of the proposed construction, payment, or contribution of a mobility facility; and
 - d. The effect of a reimbursement on other programmed mobility facilities in the mobility fee benefit district.

(f) *Issuance of certificate of occupancy by the Administrator.*

- (1) *Generally.* Prior to issuance of the applicant's certificate of occupancy by the County, the applicant will be required to pay its mobility fee assessment or satisfy its mobility fee obligation through final close-out of its mobility fee alternative satisfaction agreement. No satisfaction of mobility fees or potential reimbursement shall be made until full performance of the mobility fee alternative satisfaction agreement has been achieved by the applicant, pursuant to the terms of said agreement and the provisions of this article.
- (2) *Land dedications final.* Prior to issuance of the applicant's certificate of occupancy by the County, any land dedication approved in the mobility fee alternative satisfaction agreement must be dedicated to, and accepted by, the County in a form acceptable to the County Attorney, at no cost to the County.
- (3) *Capital improvements complete.* Prior to issuance of the applicant's certificate of occupancy by the County, all required construction and contributions must be completed and have been accepted by the County; a suitable warranty bond must have been received and approved by the County; and all design, construction, inspection, testing, bonding, and acceptance procedures must be complete and in compliance with all applicable requirements of the County and the State of Florida, if applicable.

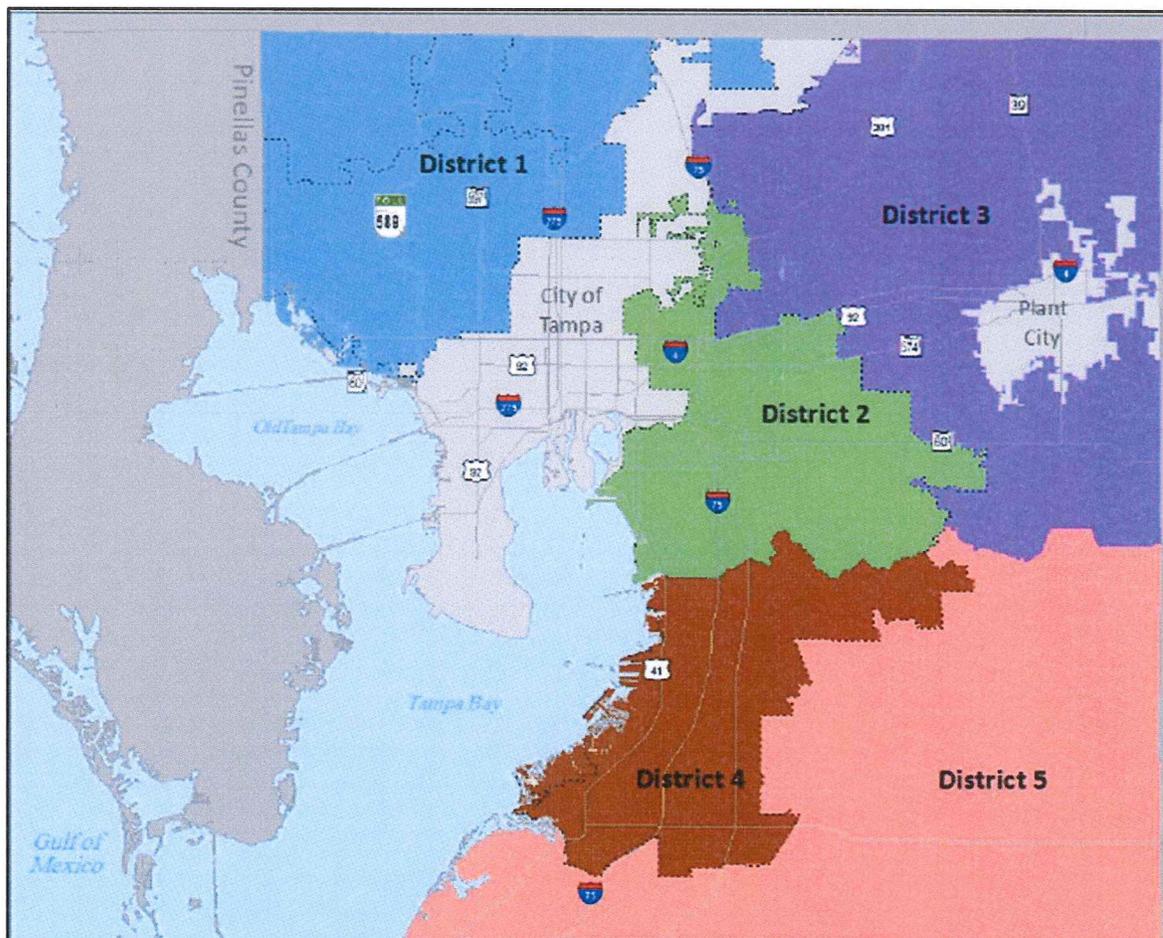
Sec. 40-83. – Mobility fee benefit districts.

(a) *Generally.*

(1) Mobility fee benefit districts are established and maintained to ensure a rational nexus between new development, the demand new development creates for additional mobility network capacity, and the provision of new mobility facilities to meet that demand. The maintenance and expenditure of mobility fee revenues and the provision of approved mobility fee waivers and reimbursements are governed in accordance with the mobility fee benefit districts and the provisions of this section.

(2) Mobility fee benefit districts are distinct from mobility fee assessment districts, as described in section 40-79.

(b) *Established.* Based on the methodology and analyses described in the mobility fee study, there are established five (5) separate mobility fee benefit districts, which are illustrated in the following map, and which is on file with the County:



- (c) *Review of mobility fee benefit district boundaries.* Changes in development patterns may affect the location of the boundaries of the described mobility fee benefit districts. Therefore, during the County's annual review, as required by section 40-88, and its periodic update to the mobility fee study, as required by section 40-89, the Administrator shall review the geographic boundaries of these district and shall, as necessary, make recommendations to the Board relating to recommended boundary changes as are necessary to maintain equity and legal compliance in the application of the mobility fee program. If the Board finds that amendments are necessary, it shall amend this article accordingly.
- (d) *Transportation zones distinguished.* Mobility fee benefit districts are distinct from transportation impact assessment zones established in article II. Such zones are governed solely according to the applicable provisions of article II and transportation impact assessments.

Sec. 40-84. – Mobility fee trust funds.

- (a) *Generally.* Mobility fee trust funds are established and maintained to ensure a rational nexus between new development, the demand new development creates for additional mobility network capacity, and the provision of new mobility facilities by the County to meet that demand. The expenditure of mobility fee revenues and the provision of mobility fee alternative satisfaction agreements are governed in accordance with the mobility fee trust funds and the provisions of this section.
- (b) *Established.*
- (1) Mobility fee trust funds. There are hereby established five (5) separate mobility fee trust funds, one for each mobility fee benefit district established in 40-83. Each fund shall be designated by the mobility fee benefit district from which it is collected.
- (2) Deposit of mobility fee revenues and interest.
- a. Upon collection of mobility fees, as provided in section 40-78, revenues received by the County shall be deposited into the mobility fee trust fund according to the mobility fee benefit district from which it is collected.
- b. Interest earned shall be maintained in the mobility fee trust fund to which the interested accrued.
- (3) Use of mobility fee revenues.
- a. Funds maintained in a mobility fee trust fund shall be spent only in accordance with section 40-85 and applicable law.
- b. The Administrator shall establish and implement necessary accounting and reporting measures to ensure all mobility fees are properly deposited, accounted for, reported, encumbered, and spent in accordance with this article and the applicable requirements of law.

- (4) Transportation trust funds distinguished. Mobility fee trust funds established in this section are distinguishable from transportation trust funds established in article II for maintaining transportation impact assessment revenues. Such trust funds are governed solely according to the applicable provisions of article II and transportation impact assessments.

Sec. 40-85. - Expenditures from trust funds.

- (a) *Generally.* Mobility fees collected shall be used for new mobility facilities on the mobility network and for the purposes set forth in this section.

(b) *Use of mobility fee revenues.*

- (1) For mobility facilities. As specifically provided by this section, mobility fee revenues deposited and accruing to a mobility fee trust fund shall be used solely for the provision of capital improvements to mobility facilities in the mobility network by the County or a cooperating agency, for eligible reimbursement for dedicated capital improvements under an approved mobility fee alternative satisfaction agreement, and for the actual costs of administering the mobility fee program, as provided by § 163.31801, Florida Statutes.

- (2) Expenditures for operation or maintenance prohibited. Mobility fee revenues shall not be used for any expenditure classified as an operation expense or maintenance cost associated with the mobility network.

(3) By mobility fee benefit district.

- a. *Expenditures within mobility fee benefit district where collected.* Except as provided in subsection (b)(3)b., mobility fee revenues shall be used for the provision of mobility facilities within the mobility fee benefit district from which they were collected.

b. *Expenditures outside mobility fee benefit district where collected.*

1. In those instances where the boundary line between two mobility fee benefit districts lies along the center line of a mobility facility segment, the Administrator may program expenditures from the mobility fee trust funds of either or both of the districts to make improvements to the mobility facility segment.
2. The Board may allow the allocation of mobility fee revenues for use in a mobility fee benefit district adjacent to the district in which they were collected, provided that the Board establishes a rational nexus between the expenditure of the revenues and the benefits accruing to the developments within the district generating the impact, as required by law.

(4) When spent.

- a. Mobility fee revenues shall be spent within ten (10) years of collection.
- b. For County or other governmental expenditures of mobility fees, the first fees deposited into a mobility fee trust fund shall be deemed the first fees spent.

(c) *Expenditures by agencies other than Hillsborough County.*

- (1) Generally. Certain capital improvements contained on the mobility network fall within the jurisdiction of other agencies, which provide mobility facilities and services. These mobility facilities have been included in the calculation of the mobility fees and a pro rata portion of mobility fee revenues collected within each mobility fee benefit district will be made available for construction of capital improvements on the mobility network that are the responsibility of other agencies, in accordance with this article and state law.
- (2) Agreement required.
 - a. Prior to the transfer of any mobility fees for expenditure by another agency, the County shall enter into an agreement with the agency to ensure that mobility fee revenues are directed to only those mobility facilities designated by both entities according to the provisions of this article and state law.
 - b. Such agreements shall direct the expenditure of mobility fee revenues on specific mobility facility capital improvements and shall establish a program for the expenditure of revenues, in conformance with the restrictions and limitations imposed on the County under this article.
 - c. Such agreements shall further ensure that mobility fee revenues are spent solely on mobility facilities to accommodate new growth, consistent with this section. Said funding must be included in the agency's capital improvement plan for the fiscal year in which the County mobility fee revenues are to be transferred for expenditure by the agency.

Sec. 40-86. – Mobility fee refunds.

- (a) *Generally.* Mobility fees paid pursuant to this article may be refunded upon the request of the fee payer, provided the mobility fee revenues on deposit have not been spent as required by section 40-85(b)(4).
- (b) *Procedures.* If the Administrator determines that mobility fee revenues collected pursuant to this article have not been spent as required by section 40-85(b)(4), then such revenues, plus interest, may be refunded at the request of the fee payer as set forth below:
 - (1) Interest rate. The rate of interest shall be based on the average of rates of interest earned on County funds from the month and year the mobility fee was collected to the month and year the fees are refunded. The rate of interest for all fees collected since the enactment of the ordinance shall be reviewed annually during the annual review process provided for in this article.
 - (2) Petition for refund. Fee payers shall have one (1) year from the last day on which mobility fees must have been spent as required by section 40-85(b)(4) to petition the Administrator for a refund. The petition shall be in a form prescribed by the County and shall contain:
 - a. The name and address of the petitioner;

- b. The date the mobility fee was paid;
 - c. The amount of the mobility fee; and
 - d. A copy of the petitioner's deed.
- (3) Approval and refund. The petition shall be filed with and reviewed by the Administrator, and if the information is verified and otherwise in order, a refund shall be made within sixty (60) days from the date the petition was submitted.
- (4) Unclaimed refunds. If no claim is made within the time period described above, for the mobility fees eligible for refund, then said revenues shall be returned to the mobility fee trust fund from which it was removed.

Sec. 40-87. - Enforcement and penalties.

The following enforcement and penalty provisions are a codification of existing procedures. The provisions of this section may be used singularly or in any combination the County deems appropriate in the course of enforcement of this article.

(a) *Action for invalid check.*

- (1) In the event payment for mobility fee assessments hereunder were paid by a check, draft, or other negotiable instrument that does not clear, the County shall suspend any permits or development orders authorizing any development or related activity on the project for which mobility fees were paid by the invalid instrument. The County shall send notice by certified mail to the mobility fee applicant using a form provided by the County. If the mobility fee, together with any charges for the check or other instrument not clearing, are not paid within ten (10) working days following mailing of the notice, such permit or development order shall be of no further force and effect, and a stop work order or other order having a similar effect, as may be appropriate under the circumstances, may be issued and not lifted until such time as the unpaid assessment is paid.
- (2) Additionally, the matter shall be referred to the State Attorney's Office for prosecution under Ch. 832, Florida Statutes, as amended.

(b) *Lien.*

- (1) If through error, omission, or intent, mobility fees are not paid in full when due, the amount unpaid, together with statutory interest accruing from thirty (30) calendar days following the date upon which written notice by certified mail, return receipt requested, is sent to the developer, permittee, or the then-present property owner, shall be a lien against the land containing the development for which the mobility fee is due.
- (2) Notice of the lien shall be recorded in the official records of the Clerk of the Circuit Court for Hillsborough County. The lien shall have priority over all liens and encumbrances, except taxes. No lien shall be recorded later than three (3) years following the date on which the certificate of occupancy is issued for the development against which a mobility fee is due, although the debt shall remain.

- (3) If the lien remains unpaid for more than thirty (30) calendar days following the recording of the notice, it may be foreclosed as provided by State law for the foreclosure of mortgages on real property.
- (c) *Withholding development orders.* In the event that any mobility fee or portion thereof is unpaid, no further development order, as defined in Chapter 163, Florida Statutes, as amended, shall be issued for the land for which such mobility fee remains unpaid, and no development order shall be issued until any previously owed mobility fees, together with interest owing, along with current mobility fees, are paid.
- (d) *Notification of Building Board of Adjustment.* In the event that any building permittee who is a licensed contractor certified by the Hillsborough County Building Board of Adjustment, Appeals, and Examiners fails to pay a mobility fee for which the permittee is responsible, the Administrator shall file a verified complaint with that Building Board of Adjustment and Appeals, recommending disciplinary action as is provided by the Chapter 489, Florida Statutes, as amended. The verified complaint shall contain a summary of the assessments owed and the efforts made by the County to collect.
- (e) *Criminal and civil enforcement.*
- (1) *Misdemeanor.* A violation of this article shall be a misdemeanor punishable according to Section 125.69(1), Florida Statutes, as amended, and any person convicted of violating the provisions of this article shall be subject, upon conviction, to a fine not exceeding the sum of \$500.00, imprisonment not exceeding sixty (60) days, or both. Each day of violation of the provisions of this article shall constitute a separate offense.
- (2) *Civil action.* In addition to the penalties provided by Section 125.69(1), Florida Statutes, as amended, any violation of this article shall be subject to appropriate civil action in a court of appropriate jurisdiction.

Sec. 40-88. – Annual review and audit requirements.

- (a) *Annual review of mobility fee program.*
- (1) Each year during the normal County budget cycle, the Administrator will prepare a report to the Board on the subject of mobility fees, which report may include, as needed:
- a. A summary of mobility fees collected and spent during the preceding fiscal year;
 - b. A summary of mobility facilities initiated and completed during the preceding fiscal year by the County or a cooperating agency;
 - c. The building permits and certificates of occupancy issued, by land use type as set forth in the mobility fee rate schedule; and
 - d. The schedule of mobility facility capital improvements included in the subsequent six-year period of the mobility plan.

- (2) Based on the review of said information, the Administrator will, as needed, identify any changes to the mobility fee program recommended for consideration by the Board.
 - (3) Based on the Administrator's report and such other factors as the Board deems relevant and appropriate, the Board may amend this article, the mobility plan, or the mobility fee study as needed to maintain legal compliance. Nothing herein precludes the Board or limits its discretion to amend this article or the mobility fee program at such other times as may be deemed necessary.
- (b) *Audits requirements.* Audits of the County's financial statements, which are performed by a certified public accountant pursuant to Section 218.39, Florida Statutes, as amended, and submitted to the Auditor General, must include an affidavit signed by the director of the County finance department, stating that the County has complied with the requirements of Section 163.31801, Florida Statutes, as amended.

Sec. 40-89. – Periodic update to mobility fee study.

Unless the Board determines an update to the mobility fee study is warranted more frequently, the Administrator will initiate an update to the mobility fee study and the mobility fee rate schedule each year for the first five years following January 1, 2017, and then at least every five (5) years thereafter.

Sec. 40-90. – Annual indexing procedure.

(a) *Generally.*

- (1) Except as provided in (a)(2), in order to ensure mobility fee amounts are sufficient to address the impacts of new development, the Board has determined that the mobility fees recommended in the mobility fee study shall be indexed each year, beginning on January 1, 2018, in order to reflect changes in actual costs to meet new demand for additional mobility network capacity created by new development, as provided by this section.
- (2) Indexing shall not be required within a twelve (12) month period following an update to the mobility fee study, pursuant to section 40-89.

(b) *Procedure.*

- (1) Mobility fees shall be indexed as follows:
 - a. Mobility fee components pertaining to land costs shall be adjusted to reflect the percent change over a five-year period in just property values in unincorporated Hillsborough County, based on data from the Florida Legislature's Office of Economic and Demographic Research.
 - b. Mobility fee components pertaining to roadway construction costs shall be adjusted to reflect the percent change over a five-year period in design, construction, and construction/engineering/inspection (CEI) costs, as indicated by the Florida Department of Transportation's Office of Policy Planning.

- c. Mobility fee components pertaining to mobility facilities other than those referenced in (b)(1)a. and b., including certain transit facilities, shall be adjusted to reflect the percent change in costs over a five-year period based on the Construction Cost Index calculated by the Engineering News-Record.
 - (2) The Administrator will revise the mobility fee rate schedule based on the indexing calculation in (b)(1).
 - (3) At least ninety (90) days prior to January 1, the Administrator will provide public notice of the change in the mobility fee rate schedule resulting from the indexing procedure for that year, as required by § 163.31801, Florida Statutes. Public notice shall be provided by publication in a newspaper of general circulation within the county. Should the Administrator not provide notice of the change in the mobility fee rate schedule at least ninety (90) days prior to January 1, the changed fee schedule shall not take effect until at least ninety (90) days following the actual notice date.
- (c) After the notice period required by subsection (b)(3) has ended, impact-generating development required to pay mobility fees shall be subject to the indexed mobility fee rate schedule for that year.

Sec. 40-91 – Mobility fee hearing officer.

- (a) *Establishment.* There is hereby created the position of mobility fee hearing officer, in order to hear and decide appeals pursuant to this article.
- (b) *Appointment and removal.*
 - (1) The Board shall appoint one or more mobility fee hearing officers from among three or more persons recommended for each position by the Administrator. Should the Board appoint more than one mobility fee hearing officer, the terms of office shall be appropriately staggered and applications shall be equally assigned to mobility fee hearing officers by a confidential rotation system.
 - (2) Each mobility fee hearing officer shall be appointed for a definite term of office, not to exceed four years, and may be reappointed at the conclusion of any term.
- (c) *Qualifications.*
 - (1) A mobility fee hearing officer shall be appointed solely with regard to the qualifications for the duties of the office.
 - (2) A mobility fee hearing officer shall be an attorney duly licensed by the Florida Bar to practice law in the state of Florida, and shall have been licensed to practice law for at least five (5) years.
 - (3) A mobility fee hearing officer shall not hold other appointive or elective office or position in government during his or her term.
 - (4) A mobility fee hearing officer shall not be an employee of Hillsborough County.

- (d) *Custody of books and papers.* The Clerk of the Board shall maintain a file of all papers submitted to the mobility fee hearing officer and shall have the official custody of the application, the mobility fee hearing officer's findings and recommendation, and the record of all proceedings regarding the application. All such files shall be open to inspection by any person at reasonable times, under reasonable conditions, and under supervision by the custodian of such files or his or her designee. Any costs of reproduction shall be paid by the persons requesting copies of said documents.
- (e) *Financial disclosure.* Each person appointed as mobility fee hearing officer shall be subject to the provisions of Section 112.3145, Florida Statutes, insofar as they relate to local officers. Such disclosure shall be filed with the Supervisor of Elections. The failure to comply with the provisions of this subsection shall constitute just cause for removal from office.
- (f) *Powers and duties.*
- (1) The mobility fee hearing officer shall have all powers necessary to conduct the hearings assigned to the mobility fee hearing officer in Section 40-92.
 - (2) The mobility fee hearing officer shall have the power to issue notices of hearings and subpoenas requiring the attendance of witnesses and production of evidence, and the power to administer oaths and take testimony and evidence.
 - (3) It shall be the duty of the mobility fee hearing officer to inquire fully into the facts of each case. In addition to the powers described above, the mobility fee hearing officer shall have the following powers and duties with respect to such cases:
 - a. to receive stipulations of fact, agreed to in writing, by the participants.
 - b. to accept in lieu of originals, true copies of such documentary evidence as may be offered.
 - c. to request printed or written briefs to be filed on behalf of any of the participants in such hearings. Such briefs shall contain an abstract of the evidence and also the arguments relied on by the participant filing the same. Briefs, when requested, shall be prepared and filed with the mobility fee hearing officer within such time or times, and under such regulations, as to service of copies thereof upon the other participants, as the mobility fee hearing officer may prescribe. The above described request shall be filed on forms available from the Administrator.
 - d. to dispose of procedural requests or similar matters including motions to modify and motions to consolidate applications.
 - e. to call, examine and cross-examine witnesses and to introduce into the record all relevant evidence.
 - f. to keep a record of all persons requesting notice of the decision in each case.
 - g. to receive oral testimony presented by all interested individuals.

(g) *Statement of freedom from improper influence*

- (1) No person who is or may become a party of record before the mobility fee hearing officer nor anyone appearing on behalf of a party of record before the mobility fee hearing officer shall communicate ex parte with any mobility fee hearing officer about an application currently pending or impending.
 - (2) No member of the Board shall communicate ex parte with any mobility fee hearing officer about an application currently pending or impending. Communication between the mobility fee hearing officer and the Board of County Commissioners acting as a collegial body shall be undertaken in accordance with the terms of this Code.
 - (3) In order to assure that the mobility fee hearing officers are free from improper influence, a mobility fee hearing officer shall neither initiate nor consider ex parte communications concerning a pending or impending application. A mobility fee hearing officer, however, may obtain the advice of a disinterested expert other than another mobility fee hearing officer, if he or she gives notice to the parties of record of the person consulted and the substance of the advice, and affords the parties of record reasonable opportunity to respond.
 - (4) Whoever shall accept an appointment as a mobility fee hearing officer and any firm with which he or she is or may become associated, is, for a period of one year from the date of termination as holder of such office, hereby expressly prohibited from acting as agent or attorney in any proceeding, application or matter before any commission, board, agent or other office of County government, involving property which was the subject of an application during the time such person was in office.
 - (5) Ex parte communications as contemplated herein shall not include the required transmission of official documents by staff pursuant to the terms of this Code.
- (h) *Disqualification of mobility fee hearing officer in particular cases.* The mobility fee hearing officer shall disqualify himself or herself from a particular case when it reasonably appears that he or she has a conflict of interest. When the mobility fee hearing officer disqualifies himself or herself, the case shall be randomly assigned to another mobility fee hearing officer, if available. In the event another mobility fee hearing officer is not currently employed by the County, the Administrator may request the County Attorney to provide an attorney otherwise qualified to sit as a mobility fee hearing officer for an individual case where all hearing masters disqualify themselves.

Sec. 40-92. – Appeals.

- (a) *Generally.* Any decision of the Administrator under this article may be appealed to the mobility fee hearing officer as set forth in this section.
- (1) *Standing to appeal.* Any applicant subject to mobility fee assessment shall have standing to appeal a decision or interpretation of the Administrator under this article.

(2) *Notice of appeal.*

- a. Applicants seeking to appeal a decision or interpretation of the Administrator under this article must file a written appeal with the Administrator within 30 days of the date of the decision or interpretation sought to be appealed. In said written appeal, the applicant must clearly identify the detailed basis for the appeal of the Administrator's decision or interpretation, and that basis must correspond with the review criteria established in this article that were utilized by the Administrator in rendering the decision or interpretation being appealed.
- b. The Administrator shall set the matter for hearing before the mobility fee hearing officer within sixty (60) days of receiving the appellant's written appeal. This period may be extended by agreement between the Administrator and the party appealing the decision or interpretation.

(3) *Conduct of hearing.*

- a. The hearing shall be limited to the record on appeal, and shall consist of oral argument by the Administrator and the party appealing the decision, each of whom may be represented by legal counsel.
- b. The record on appeal shall consist of:
 1. The application and any other information submitted by the applicant to the Administrator; and
 2. The written decision of the Administrator and any documents attached thereto.
- c. In addition to the record on appeal, the Administrator and the appellant may freely refer to the following in presenting their cases to the mobility fee hearing officer:
 1. Applicable portions of the Future of Hillsborough Comprehensive Plan, the Hillsborough County Land Development Code, and any other duly adopted Hillsborough County ordinance, rule or resolution; and
 2. Any state or federal statute, rule, or decision.

(4) *Authority of hearing officer.* The standard of review of all decisions of the Administrator under this article shall be finding of error, except for decisions concerning grandfathering of projects under section 40-77, which shall be subject to *de novo* review as provided in section 40-77(d). Upon a finding of error in the Administrator's decision, the hearing officer shall identify the error and is authorized to take any action that the Administrator was authorized to take under this article.

(5) *Decision of hearing officer.*

- a. Upon a finding of error in the administrative decision, the hearing officer shall identify the error and is authorized to take any action that the Administrator was authorized to take under this article.

- b. The decision of the hearing officer shall be rendered not later than five working days after the conclusion of the hearing. The hearing officer may request additional time, with the consent of the parties.
 - c. The decision of the hearing officer shall be reduced to writing and shall include findings of fact, if any, and conclusions of law, and the decision shall be based on the record on appeal presented in accordance with this section.
- (6) *Finality of decision.* The decision of the hearing officer is final. The hearing officer's decision may be challenged by any person with standing under state law, in whatever way authorized by state law.

Appendix A: Independent Mobility Fee Calculation Guidelines and Procedures

1. Pre-application Meeting. Before beginning the independent mobility fee calculation, the applicant or applicant's representative shall arrange and attend a pre-application meeting with the Administrator and any other appropriate County staff to discuss the requirements, procedures, and methodology of the independent mobility fee calculation. The pre-application meeting shall normally cover the following topics:

- a. *Proposed Previous Studies*

If the applicant proposes relying on the results of any previous studies, the applicant must submit said studies to the County for review for sufficiency and applicability to the proposed new development. The final determination as to whether a previous study County may be utilized for a proposed study shall be at the sole discretion of the Administrator.

- b. *Proposed Study Sites*

The applicant shall identify a minimum of three comparable sites to be studied. The site description shall include the specific location, the character of the location, and the land use(s) at the location (including ITE code and classification).

The applicant shall include an explanation of why the proposed sites are similar to the proposed new development. The explanation shall address pertinent characteristics, such as land use, adjacent area, access to roadway network, and demographics.

The applicant shall include a map showing the location of the proposed new development and the proposed study sites. County staff shall review the proposed study sites for applicability to the proposed new development. Final determination as to whether a proposed study site is sufficiently comparable to the proposed development shall be at the sole discretion of the Administrator.

For cases where three comparable sites are not available in Hillsborough County, the applicant shall pay the fee based on a land use category that the Administrator

feels is most representative and the applicant conduct trip characteristics study 3 to 5 years after the operations begin to verify/revise.

c. *Study Data Elements*

Study data elements shall include the mobility fee formula demand component variables. These are the trip generation rate, trip length and percent new trips factor. Each of these components is discussed below:

(1) Trip Generation Rate

The trip generation rate is normally determined by machine counts. The applicant shall provide documentation depicting the proposed machine counter sites and locations within the site. County staff shall review the proposed sites for suitability of equipment, hose/loop detector configurations, and the dates of counting to reflect typical travel characteristics (i.e., excluding holidays, unusually bad weather conditions, etc.). The County staff shall specify the level of detail to be included in the study report.

(2) Trip Length and Percent New Trips

These two data items are normally determined by an origin/destination survey, consisting of motorist interviews. County staff shall review the proposed location of interviewers, interview forms, dates and times of day for conducting interviews. Documentation of the number of patrons that elected not to participate is also required for evaluating the accuracy of data collected. The applicant shall provide all interview questions to the Administrator for pre-approval.

Trip length shall not be limited to County boundary and shall be capped at 30 miles.

(3) Other Data Items

County staff shall specify any other data items the applicant shall be required to collect for the proposed study.

d. *Proposed Data Collection Methodology*

County staff shall review the applicant's proposed methodology for analyzing the data collected in the study. This methodology shall follow Section 2, below.

e. *Report Format*

The applicant shall provide the study report in a format acceptable to the County. The applicant shall compile the study findings into a report generally structured as follows:

- Table of Contents
- Letter of Transmittal
- Findings of the Report
 - Trip generation rate
 - Trip length
 - Percent new trips
- Mobility Fee Calculations
- Appendices
 - Trip generation rate summary
 - Trip length worksheet
 - Percent new trips worksheet
 - Trip generation data (including original machine counts and manual verification counts)
 - Interview forms (use attached forms)

Subsequent to the pre-application meeting, the applicant shall submit three copies of the proposed approach to the study to the Administrator, who has forty-five (45) days to respond in writing to the proposed approach. If County staff concurs with the proposed approach, the applicant shall be notified to proceed with the study. If County staff disagrees with the proposed approach, County staff shall identify the problem areas for the applicant. The applicant must receive approval from County staff before proceeding with the study. In the event the applicant disagrees with a decision of the Administrator that effectively results in a denial of the independent mobility fee calculation, the applicant may appeal said decision pursuant to Sec. 40-81(e) of article III.

2. Methodology. The following guidelines shall be followed when conducting an independent mobility fee calculation:

a. *Collecting Trip Generation Data*

The applicant shall be required to place the machine counters at project driveways, for a minimum of three consecutive weekdays of 24-hour machine counting, on days representative of typical traffic patterns at that site (not during a holiday or unusual weather conditions (heavy rains, etc. that would affect traffic patterns), for example). The traffic counts shall occur during the same days which the collection of trip length and percent new trips data is conducted.

The data to be collected includes:

- Date and times of counts;
- A summary of counts by 15-minute increments (entering, exiting, and total);
- Average daily volume; and
- Volume during the a.m. and p.m. peak hours of the adjacent street.

The applicant must verify the correct operation of the machine counters by manually observing their proper data recording for at least two hours during the a.m. or p.m. peak hour of the site (in fifteen minute increments) during the same days that the machine count data is collected. The machine counts shall then be reviewed to ensure that a margin of error of 10 percent or less is achieved between inbound and outbound trips counted. The manual verification data shall then be used to calibrate the machine count data collected during either the a.m. or p.m. peak hour of the site. The calibration factors developed through this review shall then be used to adjust the daily machine counts. The manual verification counts are intended to verify the correct operation of the machine counters and as such are required to show proof of reducing the margin of error (between inbound and outbound trips) originally observed from the raw machine count data. The manual verification, machine counts, and calibration must be documented in the study report to show that the necessary quality control measures have been taken to reflect accurate calculation of the trip generation rate. If a machine has a margin of error greater than the allowable 10 percent, a recount is required. Additional measures such as reviewing the counts by time and day shall be taken to ensure that any anomalies that may have occurred on

a certain day that is out of the ordinary trend relative to the other days be treated accordingly in terms of the necessary adjustments to the machine counts.

The applicant shall include the machine count data in the study report. All data are subject to review and acceptance by County staff, based on currently accepted traffic engineering practice. County staff or the County's consultant may visit the study site to observe the placement and operation of the machine counters.

If the applicant is unable to obtain machine and manual counts according to the above requirements, he/she may repeat the entire count or may elect to submit an explanation in writing to the County staff. County staff shall review the explanation and then may accept the data as is, approve a partial recount, or require an entire recount. County staff shall provide this response in writing within ten (10) working days.

Alternative methods of collecting trip generation data that are not expressly described herein may be utilized only if such methods are acceptable to the Administrator.

b. *Collecting Trip Length and Percent New Trips Data*

The origin/destination survey shall collect the following information:

- Date of the interview;
- Location of the interview;
- Name of the interviewer;
- Time of day of the interview;
- Origin of the interviewee's trip,
- Destination of the interviewee's trip, and
- Trip purpose.

The place of origin or destination shall be identified as accurately as possible. The origin and destination shall be determined with one of the following methods (listed from most preferred method to least preferred method):

- The specific name and address of the origin and destination;
- The specific name of the origin and destination (mall, town, bank,

- supermarket, subdivision, school, etc.)
- The intersection nearest to the origin and destination; or
- The major intersection nearest to the origin and destination (only if none of the above information is available).

The applicant shall employ interviewers that have a strong prior knowledge of the places and major intersections in the community that are most likely to be named by interviewees so the interviewers can quickly recognize and record these responses when interviewees give them, or solicit further detail in the response. In some cases, places named by interviewees cannot later be pinpointed when the interview forms are tabulated, disqualifying those interviews as observations. For that reason, the applicant is prudent to conduct a quantity of interviews in excess of the minimum required sample size.

The applicant shall use an interview form to record the interview responses. This form shall be used to record the information identified above. The applicant shall include copies of the completed interview forms in the study report. Samples of acceptable interview forms are included at the end of this appendix. These samples include fields to record the data items listed above, as well as fields for calculating the trip length (at a later time), and fields for quality control. The applicant shall include copies of the completed interview forms in the study report.

It is not acceptable to record the trip length as estimated by the interviewee. The proper method to determine a trip length is to use a scaled map to measure the shortest route between the site and the reported places of origin and destination, or by using a geographic Information system to measure the distance directly using a vehicle odometer.

Note that only one person per car shall be surveyed. In the case of non-residential land uses, it is important that all access point to the site are covered (such as back entrances used by employees, etc.), and an appropriate number of employees is also interviewed (at least 25 to 30 percent of the employees) in addition to the patrons.

Alternative methods of collecting trip length and percent new trips data that are not expressly described herein may be utilized only if such methods are acceptable to the Administrator.

Acceptable procedures to determine if a trip is classified as Primary, Diverted/Secondary, or Captured, are explained below.

c. *Trip Type Classification*

Using the survey information, trips should be classified into one of four groups: primary, captured, diverted, or secondary.

- **Primary** trips are trips made from the origin (home, place of work, etc.) to the survey site and then back to the origin. The length is measured along the shortest reasonable route between the trip origin and the survey site. The length of the trip is recorded twice once for the trip to the site and again for the return trip. See Figure 1.
- **Pass-By Captured** trips are trips that add no travel to the roadway from a traffic-impact-analysis perspective. A captured trip occurs when the survey site is an intermediate stop located within the ideal grid street rectangle defined by the primary trip origin and destination. The intermediate stop at the survey site may cause the route selected for travel to be different than if no intermediate stop were planned, but no additional travel is introduced as a result. The percentage of new trips used in the impact/mobility fee demand component is simply one minus the percentage of captured trips. See Figure 2.
- **Diverted/secondary** trips are similar to captured trips in that they are intermediate stops between trip origins and primary destinations; however, in diverted and secondary trips the survey site is located outside the boundaries of the origin/destination rectangle. The trip length assigned to these trips differs based on the length of the diversion. The two measurements are considered in determining the trip length of the diverted trips and the lower trip length is recorded (see Figure 3):
 1. Round-trip length of the diversion back to the rectangle ($2 \times D$); and
 2. The average trip length of origin to site, and site to final destination $((A+B)/2)$.

When the 1st option is shorter and used, the trip is considered a “diverted” trip. When the 2nd option is used, the trip is considered “secondary”.

The applicant shall also include in the study report:

- ✓ The number of observations (useable interview responses);
- ✓ The average trip length, rounded off to 0.1 mile; and
- ✓ The percent new trips.

It is important to note any potential anomalies to the study site. For instance, if there is a possibility of cut-thru traffic, the survey form shall be created to accurately reflect this and trip generation as counted by the machine counts shall be adjusted. Another example of potential site-specific anomalies could be the presence of an exterior parking lot. Patrons parking outside of the study site shall not be included in the survey data.

d. *Number of Interviews to Conduct*

In determining a reasonable estimate of the trip length and percent new trips, the applicant shall perform surveys at each of the three sites for a minimum of 10 hours per site. The specific time period to be covered shall be governed by the type of land use being surveyed and its typical daily operations. An observation shall be considered valid if its origin and destination are specific enough from which the trip length and type of trip can be determined. Because captured trips do not have a measured origin and destination, captured trips are not included in this calculation. The specific required number of valid surveys is the number of surveys required to meet a 90% level of confidence at a plus/minus 15% level of accuracy, or at least a total of 150 usable surveys for the study land use.

Upon completion of the surveys, whether there were sufficient number of surveys shall be determined through the following formula, which calculates the necessary sample size:

$$N = \frac{C^2 \times Z^2}{E^2}$$

Where:

N is the required sample size for the specific level of confidence at the desired accuracy level;

C is the coefficient of variation as calculated by dividing the sample mean trip length into the standard deviation of the sample trip length;

Z is the normal distribution value statistic at the specific level of confidence; and

E is the specific margin of error or level of accuracy.

The above formula is based on a methodology developed by Michael E. Smith in "Design of Small-Sample Home Interview Travel Surveys", Transportation Research Board 701, 1979.

e. *Raw Data must be Submitted*

The applicant shall submit copies of the raw data to the County with the study report.

3. Guidelines. The applicant shall use the information derived from the traffic study to calculate an independent mobility fee. The results of the independent mobility fee calculation study shall be submitted to the Administrator
4. Submitting the Study Report. The applicant shall submit five (5) copies of the study report to the Administrator. The study must be certified by a Professional Engineer registered in the State of Florida.
5. Sufficiency and Fee Determination. The Administrator shall review the independent mobility fee calculation for sufficiency methodology, technical accuracy and findings, and shall make the final determination as to whether to accept the study and the amount of the mobility fee assessment. If the resulting vehicle miles of travel (VMT) is at least 10% different than the average VMT used to calculate the fee for a given category, the County may consider providing a differential rate.

Appendix B: Transportation Impact Fee Offset Transferability

Impact Fee Assessment Zone	Transferability of Existing Impact Fee Offsets					
	Existing Impact Fee Zone	Mobility District #1	Mobility District #2	Mobility District #3	Mobility District #4	Mobility District #5
Zone 1	Yes	Yes	-	-	-	-
Zone 2	Yes	-	Yes	-	-	-
Zone 3	Yes	-	-	Yes	-	-
Zone 4	Yes	-	Yes	-	-	-
Zone 5	Yes	-	-	Yes	-	-
Zone 6	Yes	-	-	-	Yes	-
Zone 7	Yes	-	Yes	-	Yes	-
Zone 8	Yes	-	Yes	-	Yes	-
Zone 9	Yes	-	-	-	Yes	-
Zone 10	Yes	Yes	-	-	-	-

STATE OF FLORIDA }
COUNTY OF HILLSBOROUGH }

I, PAT FRANK, Clerk of the Circuit Court and Ex Officio Clerk of the Board of County Commissioners of Hillsborough County, Florida, do hereby certify that the above and foregoing is a true and correct copy of an Ordinance adopted by the Board at its regular meeting on the 26th day of April, 2016, by a vote of 7 voting yes and 0 voting no, as the same appears in record in Minute Book 479 of the Public Records of Hillsborough County, Florida

WITNESS my hand and official seal this 2nd day of May, 2016.

PAT FRANK
CLERK OF THE CIRCUIT COURT

BY: *Diana Taylor*
Deputy Clerk



Approved By County Attorney
As To Form and Legal Sufficiency:

By: *[Signature]*
Assistant County Attorney



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

May 2, 2016

Honorable Pat Frank
Clerk of the Circuit Court
Hillsborough County
419 Pierce Street, Room 140
Tampa, Florida 33601

Attention: Diana Leon, Deputy Clerk, BOCC Records

Dear Mrs. Frank:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Hillsborough County Ordinance No. 16-8, which was filed in this office on May 2, 2016.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb