

**GREEN COVE SPRINGS, FLORIDA**

**CITY OF GREEN COVE SPRINGS MOBILITY FEE ORDINANCE**

**ADOPTED \_\_\_\_\_, 2023**

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ORDINANCE NO. 2023-\_\_\_\_\_

AN ORDINANCE TO BE KNOWN AS THE GREEN COVE SPRINGS MOBILITY FEE ORDINANCE; PROVIDING DEFINITIONS, RULES OF CONSTRUCTION, AND FINDINGS; ADOPTING THE MOBILITY FEE STUDY; PROVIDING FOR MUNICIPAL PARTICIPATION; IMPOSING MOBILITY FEES ON NEW CONSTRUCTION; PROVIDING FOR CALCULATION AND ALTERNATIVE CALCULATION PROCEDURES FOR MOBILITY FEES; PROVIDING FOR PAYMENT; PROVIDING FOR THE USE OF MOBILITY FEE PROCEEDS; PROVIDING FOR EXEMPTIONS; PROVIDING FOR AFFORDABLE AND WORKFORCE HOUSING MOBILITY FEE DEFERRAL; PROVIDING FOR AN ECONOMIC DEVELOPMENT MITIGATION PROGRAM; PROVIDING FOR CHANGES IN SIZE AND USE; PROVIDING FOR DEVELOPER CONTRIBUTION CREDIT; PROVIDING FOR APPLICABILITY; PROVIDING FOR AN ALTERNATIVE COLLECTION METHOD; PROVIDING FOR REVIEW HEARINGS; PROVIDING A REVIEW REQUIREMENT; PROVIDING FOR PERIODIC MOBILITY FEE RATE ADJUSTMENT; PROVIDING FOR A DECLARATION OF EXCLUSION FROM ADMINISTRATIVE PROCEDURES ACT; PROVIDING FOR ACCOUNTING AND REPORTING OF MOBILITY FEES; PROVIDING FOR NOTICE OF MOBILITY FEE RATES.

BE IT ORDAINED BY THE CITY COUNCIL OF CITY OF GREEN COVE SPRINGS, FLORIDA:

ARTICLE I

GENERAL

**SECTION 1.01. DEFINITIONS.** When used in this Ordinance, the following terms shall have the following meanings, unless the context otherwise clearly requires:

“**Access Improvements**” shall mean adjacent improvements designed and constructed to provide safe and adequate ingress and egress from New Construction, which include, but are not limited to, rights-of-way, easements, paving of adjacent or connecting roadways, turn lanes, deceleration and acceleration lanes, intersection upgrades, traffic control devices, signage and markings, sidewalks, multi-use paths, bike lanes, and drainage systems and utilities.

“**Accessory Building or Structure**” shall mean a detached, subordinate building, meeting all property development regulations, the use of which is clearly incidental and related to the use of the principal Building or use of land, and which is located on the same lot as that of the principal Building or vacant land use.

“**Affordable Housing**” shall mean a Dwelling Unit which is offered for sale or rent to Low-Income Persons or Very-Low-Income Persons and which monthly rent or monthly mortgage payments, including taxes, insurance and utilities, do not exceed 30 percent of that amount which represents the percentage of the median adjusted gross income for Low-Income Persons and Very-Low-Income Persons.

“**Alternative Mobility Fee**” shall mean any alternative fee calculated by an Applicant and approved by the Mobility Fee Coordinator pursuant to **Section 2.03**.

“**Apartment**” shall mean a rental Dwelling Unit located within the same Building as other Dwelling Units.

“**Applicant**” shall mean the person who requests Electrical Power Clearance, an exemption, a deferral, an expansion, or a credit as the case may be and the context requires.

“**Building**” shall mean any structure, either temporary or permanent, having a roof impervious to weather and used or built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind. This term shall include tents, trailers, mobile homes, or any vehicles serving in any way the function of a building. This term shall not include temporary construction sheds or trailers erected to assist in construction and maintained during the term of a Building Permit.

“**Building Permit**” shall mean an official document or certificate issues by the City, under the authority of ordinance or law, authorizing the construction or siting of any building. “Building

Permit” shall also include move-on permits or other development approvals for those structures or Buildings, such as a mobile home, that do not require a Building Permit in order to be constructed or occupied.

“**Certificate of Occupancy**” shall mean the document issued by the City under the authority of ordinance or law that indicates the completion of a Building erected in accordance with plans approved by the building department, and final inspection having been performed, thereby allowing the building to be occupied. “Certificate of Occupancy” shall also include move-on permits or other development approvals for those structures or Buildings, such as a mobile home, that do not require a Building Permit in order to be constructed or occupied.

“**City Transportation System**” shall mean the street system within the City as defined in section 334.03(3), Florida Statutes, or its statutory successor in function. Including those within the State Highway System, associated bike lanes, sidewalks, transit facilities and other multimodal facilities for non-vehicular modes of transportation.

“**Council**” shall mean the City Council of Green Cove Springs, Florida.

“**Comprehensive Plan**” shall mean the City of Green Cove Springs Comprehensive Plan adopted and amended pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act as contained in Part II, Chapter 163, Florida Statutes, or its statutory successor in function.

“**Condominium**” shall mean a single-family or time-sharing ownership unit that has at least one other similar unit within the same building structure. The term Condominium includes all fee simple or titled multi-unit structures, including townhouses and duplexes.

“**City**” shall mean City of Green Cove Springs, Florida, a political subdivision of the State of Florida.

“**City Engineer**” shall mean the Person appointed by the City Manager to serve as its engineer or the designee of such Person, in accordance with Section 336.03, Florida Statutes, or its statutory successor in function.

“**City Manager**” shall mean the chief administrative officer of the City, appointed by the Commission, or the designee of such Person.

“**Designated Mobility Improvement**” shall mean a specific capital improvement that adds capacity to the City Transportation System to accommodate the mobility demands from New Construction and is listed for improvement in the Capital Improvement Element of the Comprehensive Plan, as identified in the Mobility Fee Study or subsequently added to the City’s Capital Improvement Element.

“**DRI Developer**” shall mean a developer of a Development of Regional Impact (“DRI”) under section 380.06, Florida Statutes.

“**Dwelling Unit**” shall mean a Building, or portion thereof, designed for residential occupancy, consisting of one or more rooms which are arranged, designed or used as living quarters for one or more persons.

“**Electrical Power Clearance**” shall mean the establishment of a permanent electrical power service to New Construction. A request for Electrical Power Clearance shall be initiated by the Applicant’s request for an Equipment Check Inspection from the City for the New Construction. If the New Construction passes the inspection, the City will notify the appropriate power company that electrical service may be established.

“**Encumbered**” shall mean monies committed by contract or purchase order in a manner that obligates the City to expend the encumbered amount for the delivery of goods, the completion of services, and the conveyance of right-of-way by a vendor, supplier, contract or owner.

“**External Trip**” shall mean any Trip which either has its origins from or its destination to the New Construction and which impacts the City Transportation System.

“**Government Buildings or Facilities**” shall mean property owned by the United States of America or any agency thereof, a sovereign state or nation, the State of Florida or any agency thereof, a county, a city, a special district, a school district, or a municipal corporation.

“**Initial Purchaser**” shall mean the initial Owner-occupant of Residential Construction subject to an Affordable Housing or Workforce Housing deferral pursuant to Section 3.02.

“**Low-Income Persons**” shall mean one or more natural persons, the total adjusted gross household income of which does not exceed 80% of the median adjusted gross income for households within the Jacksonville, Florida metropolitan statistical area covering the City as reported by the U.S. Department of Housing and Urban Development or its governmental successor in function.

“**Mixed Use New Construction**” shall mean New Construction in which more than one Mobility Fee Land Use Category is contemplated with each Category constituting a separate and identifiable enterprise not subordinate to or dependent on other enterprises with the New Construction.

“**Mobile Home**” shall mean any vehicle without independent motive power which is designed for housing accommodations and transportation over the highways on a chassis under carriage, which is an integral part thereof, but does not include travel trailers or recreational units as defined by Section 320.01, Florida Statutes. This definition shall include: (1) any unit which meets the criteria above and is certified by the Department of Safety and Motor Vehicles as meeting requirements of (USAS) A-119.2 as prescribed in Chapter 320, Florida Statutes; and (2)



manufactured homes designed to be used as Dwelling Units, as defined in Chapter 553, Florida Statutes, or its statutory successor in function.

“**Mobility Fee**” shall mean the Mobility Fee imposed by the City pursuant to Section 2.01, or, if applicable, the Alternative Mobility Fee, pursuant to Section 2.03.

“**Mobility Fee Coordinator**” shall mean the Director of the City of Green Cove Springs Planning Department or his or her designee.

“**Mobility Fee Land Use Category**” shall mean those categories of land use incorporated in the Mobility Fee Rate Schedule adopted in the Mobility Fee Study.

“**Mobility Fee Rate**” shall mean a Mobility Fee imposed for a particular New Construction under the applicable Mobile Fee Land Use Category established in the schedules included in the Mobility Fee Study.

“**Mobility Fee Study**” shall mean the City of Green Cove Springs Mobility Fee Study adopted pursuant to Section 1.04, as amended and supplemented pursuant to Section 3.09.

“**Moderate Income Persons**” shall mean one or more natural persons, the total adjusted gross household income of which does not exceed 120% of the median adjusted gross income for households within the Jacksonville, Florida, metropolitan statistical area covering the City as reported by the U. S. Department of Housing and Urban Development or its governmental successor in function.

“**New Construction**” shall mean land construction designed or intended to permit a use of the land which will contain more Dwelling Units, Buildings or floor space than the existing use of land, or to otherwise change the use of the land in a manner that increases the generation of vehicular or non-vehicular traffic or the number of External Trips.

“**New Net Trip**” shall mean the average daily External Trips after accounting for “pass-by trips”. This is often referred to as a primary trip, which a stop at the location is the primary reason for the trip.

“**Off-Site Improvements**” shall mean road improvements located outside of the boundaries of a New Construction which are required to serve External Trips, but not including Access Improvements.

“**Ordinance**” shall mean this City of Green Cove Springs Mobility Fee Ordinance.

“**Owner**” shall mean the Person holding legal title to the real property containing the New Construction.

“**Pass-by Trip**” is made as an intermediate stop on the way from an origin to a primary trip destination without a route diversion. Pass-by trips are attracted from traffic passing the site on an adjacent street or roadway that offers direct access to the generator (origin or destination).

“**Person**” shall mean any individual, corporation, governmental agency, business trust, estate, trust, partnership, association, property owners’ association, two (2) or more persons having a joint or common interest, governmental agency, or other legal entity.

“**Person Miles Traveled (PMT)**” is a standard measure of mobility that combines both the number and length of trips that is mode neutral.

“**Qualified Target Industry Business**” shall mean a new or expanding business in the City that has a positive economic and fiscal impact on the City and meets the definitional requirements of Section 288.106, Florida Statutes, or its statutory successor in function, for a Qualified Target Industry Business.

“**Residential**” shall mean Apartments, Condominiums, Single-Family Detached Houses, duplexes, and mobile homes.

“**School**” shall mean a Building, including ancillary facilities, designed to house an organization of students for educational purposes at elementary, middle, or high school levels, including public schools authorized under the rules of the State Board of Education and private schools serving the same student grade level populations, but not including any facilities for post high school educational instruction and not including any Day Care Center.

“**Single-Family Detached House**” shall mean a home on an individual lot.

“**Square Footage**” shall mean the gross area measured in square feet from the exterior faces of exterior walls or other exterior boundaries of the Building, including all floors and mezzanines within said Building, but excluding areas within the interior of the Building which are utilized for parking.

“**State Highway System**” shall mean the road system of the State of Florida that lies within the City, as defined in Section 334.03(24), Florida Statutes, or its statutory successor in function.

“**Trip**” shall mean a one-way movement of vehicular travel from an origin (one trip end) to a destination (the other trip end). The word Trip shall have the meaning which it has in commonly accepted traffic engineering practice.

“**Trip Generation or Trip Generator Rate**” shall mean the maximum average new daily trip generation rates for the applicable Trip Generation Land Use Category defined by the current version of the Institute of Transportation Engineers Trip Generation, and adjusted by the Mobility Fee Study.

“**Trip Generation Land Use Category**” shall mean the trip characteristics studies within the 11<sup>th</sup> edition of the Institute of Transportation Engineers Trip Generation, published by the Institute of Transportation Engineers (ITE), as the same may be updated from time to time, when used in calculation of any update or revision of the Mobility Fee Study pursuant to Section 3.09.

**“Very-Low-Income Persons”** shall mean one or more natural persons, the total adjusted gross household income of which does not exceed 50% of the median adjusted gross income for households within the Jacksonville, Florida metropolitan statistical area covering the City as reported by the U.S. Department of Housing and Urban Development or its governmental successor in function.

**“Workforce Housing”** shall mean a Dwelling Unit which is offered for sale or rent to Moderate Income Persons and with respect to which monthly rents or monthly mortgage payments, including taxes and insurance, do not exceed 30 percent of that amount which represents the percentage of the median adjusted gross annual income for the households of Moderate Income Persons.

**SECTION 1.02. RULES OF CONSTRUCTION.** For the purposes of administration and enforcement of this Ordinance, unless otherwise stated in this section, the following rules of construction shall apply:

A. The word “shall” is always mandatory and not discretionary; the word may is discretionary.

B. Words used in the present tense shall include the future and words in the singular shall include the plural and the plural the singular, unless the context clearly indicates the contrary.

C. Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction “and,” “or” or “either...or” the conjunction shall be interpreted as follows:

(1) *And* indicates that all the connected terms, conditions, provisions or events shall apply.

(2) *Or* indicates that the connected terms, conditions, provisions or events may apply singly or in any combination.

(3) *Either...or* indicates that the connected terms, conditions, provisions or events shall apply singly but not in combination.

D. The word “includes” shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.

**SECTION 1.03. FINDINGS.** It is hereby ascertained, determined and declared:

A. Pursuant to Article VIII, section 1(g), Florida Constitution, sections 125.01 and 125.66, Florida Statutes, and other applicable provisions of law, the Commission has all powers of local self-government to perform functions, except when prohibited by law, and such power may be exercised by the enactment of legislation in the form of City ordinances.

B. The City Council has determined that the roadway transportation system benefits all residents, employees, and visitors in Green Cove Springs. The size and configuration of the multimodal transportation system is suitable for one transportation mobility fee district.

C. Growth contemplated in the Comprehensive Plan and Mobility Fee Study will require improvements and additions to the City Transportation System to accommodate the additional users generated by such growth in order to mitigate and maintain the existing multimodal level of service.

D. Future growth, as represented by New Construction, should assist in mitigating its impacts by contributing its fair share to the cost of improvements and additions to the City Transportation System that are required to accommodate the growth in multimodal traffic, both vehicular and non-vehicular, generated by such growth.

E. Imposition of a Mobility Fee to require New Construction to contribute its fair share to the cost of required vehicular and multimodal additions is an integral and vital element of the regulatory plan of growth management incorporated in the Comprehensive Plan.

F. The imposition of a Mobility Fee is to provide a source of revenue to fund the construction or improvement of the City Transportation System, including both vehicular and multimodal improvements, that are necessitated by growth as delineated in the capital improvement element of the Comprehensive Plan, Downtown Master Plan, and the Mobility Fee Study.

G. The Designated Mobility Improvements identified in the Mobility Fee Study include roadway capacity improvements, multimodal bicycle and pedestrian improvements, sidewalks, shared use and multiuse paths, transit stops and mobility hubs, as well as intersection improvements to improve overall efficiency of the City Transportation System.

H. The Mobility Fee Study uses “person miles travelled” (PMT) as the basis for calculating the Mobility Fee. Although the Designated Mobility Improvements include multimodal improvements, those improvements are a vital and necessary part of the City’s future transportation system and have been identified to increase connectivity by providing alternatives to vehicular transportation, thereby reducing the number of single-occupant vehicles, and providing a more efficient use of space and travel efficiency on the City Transportation System. The Northeast Regional Planning Model, V.2., developed by the North Florida Transportation Planning Organization, used to estimate the PMTs used in the Mobility Fee Study, incorporates the impact of these existing and future multimodal elements when determining the PMT used in the calculation of the Mobility Fee.

I. The Designated Mobility Improvements to the City Transportation System and the allocation of projected costs between those improvements and additions necessary to serve existing development and those improvements and additions required to accommodate the growth represented by New Construction, as presented in the Mobility Fee study, are proportional and reasonably connected to, and have a rational nexus with the expenditures of the Mobility Fee funds collected and the benefits accruing to the New Construction, and are hereby approved and adopted by the City. Such projections are hereby found to be in conformity with the Comprehensive Plan.

J. Transportation planning is an evolving process and the Designated Mobility Improvements to the City Transportation System identified upon the date of the adoption of this Ordinance constitute projections of growth patterns and transportation improvements and additions based upon present knowledge and judgment. Therefore, in recognition of changing growth patterns and the dynamic nature of population and employment growth, it is the intent of the Commission that the Designated Mobility Improvements to the City Transportation System be reviewed and adjusted periodically, pursuant to Section 3.09, to ensure that Mobility Fees are imposed equitably and lawfully and are utilized effectively based upon actual and anticipated traffic conditions at the time of their imposition.

K. The purpose of this Ordinance is to regulate the development of land within the City by requiring payment of Mobility Fees by New Construction and to provide for the cost of the Designated Mobility Improvements to the City Transportation System which are required to accommodate such growth. This Ordinance shall not be construed to permit the collection of Mobility Fees in excess of the amount reasonably anticipated to offset the demand on the City Transportation System generated by such New Construction.

L. The Mobility Fee Study, Mobility Fee, and this Ordinance are based on the most recent and localized data and comply with the goals, objectives and policies of the Comprehensive Plan, specifically the Transportation Element Policies; and the Capital Improvements Element Policies and are consistent with Florida law.

M. The Administrative Fee authorized in Section 2.05 is fair and reasonable and constitutes no more than the City's actual costs for the collection and administration of the Mobility Fee.

N. In Chapter 420, Florida Statutes, the Florida Legislature directly recognizes the critical shortage of Affordable Housing and Workforce Housing in the State of Florida for very low to moderate income families, the problems associated with rising housing costs in the State, and the lack of available housing programs to address these needs. In recognition of these problems and the State's encouragement to local governments to work in partnership with the State and private sector to solve these housing problems, the City finds a need for local programs to stimulate and provide for the development of Affordable Housing for Low and Very-Low Income Persons and Workforce Housing for Moderate Income Persons.

O. The City Council desires to provide financial incentives to develop and provide Affordable Housing and Workforce Housing stock within the City so that Low, Very-Low and Moderate Income Persons who desire to live and to work in the City may have access to housing, and thus to offset the negative consequences of the shortage of such housing.

P. To accomplish this objective the City Council finds that it is fair and reasonable to provide for deferral of Mobility Fees for Affordable Housing and Workforce Housing to reduce the burden of Mobility Fees on Low, Very-Low and Moderate Income Persons and encourage the development of Affordable Housing and Workforce Housing in the City.



Q. Because the imposition of the Mobility Fees herein may place the City in a non-competitive position with other local governments that have chosen not to impose mobility fees or road impact fees and thus hinder efforts by the City and the community to (1) encourage economic development opportunities within the City, (2) create permanent employment expansion opportunities for the City’s citizens and (3) encourage new or expanded businesses within the City to help reverse the daily commute out of the City, there is hereby created an **Economic Development Mobility Fee Mitigation Program for certain Non-Residential New Construction and Qualified Target Industry Businesses to mitigate any real or perceived disadvantage occurring from the imposition of the Mobility Fees.**

**SECTION 1.04. ADOPTION OF MOBILITY FEE STUDY.** The City Council hereby adopts and incorporates by reference, the study entitled “**City of Green Cove Springs Mobility Fee Study,**” dated as of **January XX, 2023,** particularly the assumptions, conclusions and findings in such study as to the allocation of anticipated costs of Designated Mobility Improvements to the City Transportation System between those costs required to accommodate existing traffic and those costs required to accommodate traffic generated by growth and those assumptions, conclusions and findings in such study as to the determination of anticipated costs of additions to the City Transportation System required to accommodate growth. The Mobility Fee Study is attached as Appendix A, and its terms incorporated herein.

## **ARTICLE II**

### **MOBILITY FEES**

#### **SECTION 2.01. IMPOSITION.**

A. All New Construction occurring within the area of the City shall pay the applicable Mobility Fee established in this Ordinance. The City Council hereby establishes one (1) Mobility District that encompasses the boundary of the City of Green Cove Springs.

B. The City Council hereby adopts the formulae for calculation and the schedules of Mobility Fees as included in the Mobility Fee Study.

**SECTION 2.02. CALCULATION OF MOBILITY FEE.**

A. Upon receipt of a complete application for a Building Permit, the Mobility Fee Coordinator shall calculate the applicable Mobility Fee, incorporating any applicable credits. If a person has received a credit pursuant to this Ordinance, that credit shall be subtracted from the otherwise applicable Mobility Fee, if such credit applies. A person may request at any time a nonbinding estimate of the Mobility Fee due for a particular development; however, such estimate is subject to change when a complete application for a Building Permit or other development permit is made.

B. The Mobility Fee shall be calculated by using (1) the Mobility Fee Rate Schedule adopted in the Mobility Fee Study and included in Appendix C made a part hereof, or (2) an Alternative Trip Generation Study approved in accordance with Section 2.03 herein. The Mobility Fees in the Mobility Fee Rate Schedule have been calculated using the formulae presented in the Mobility Fee Study. The dollar amount of a Mobility Fee required to be paid by each land use in the Mobility Fee Rate Schedule shall be multiplied by the number of units in the development seeking a Building Permit for such land use.

C. Land uses that are not specifically listed in the Mobility Fee Rate Schedule shall be assigned the trip generation rate of the most similar land use listed in the most recent edition of the Institute of Transportation Engineers, Trip Generation, as provided for in the Mobility Fee Study.

D. In the event New Construction involves 'spec' construction, the Mobility Fee shall be calculated on the basis of the land use for the finished space. The Mobility Fee for spec construction occupied upon completion of construction shall be paid in two installments. The first payment shall be due at the time the Applicant requests Electrical Power Clearance for the shell building and shall be in the amount attributable to warehouse development according to the Mobility Fee Rate Schedules set forth in the Mobility Fee Study. The amount of the initial installment shall be credited against the total fee due for the finished space. The balance of the Mobility Fee shall be paid upon the Applicant's request for Electrical Power Clearance for the built out spec space.

E. In the event a New Construction involves a Mixed Use New Construction, the Mobility Fee Coordinator shall calculate the Mobility Fee based upon the number of New Net Trips to be generated by each separate Mobility Fee Land Use Category included in the proposed Mixed Use New Construction.

### **SECTION 2.03. ALTERNATIVE MOBILITY FEE CALCULATION.**

A. In the event an Applicant believes that the impact to the City Transportation System necessitated by its New Construction is less than the New Trips that are assumed under the applicable Mobility Fee Land Use Category adopted in the Mobility Fee Study, such Applicant may, prior to requesting Electrical Power Clearance for such New Construction, file with the Mobility Fee Coordinator an Alternative Mobility Fee calculation that seeks to establish an alternative number of New Net Trips using the methodology contained in the Mobility Fee Study adopted in Section 1.04. The Mobility Fee Coordinator shall review the alternative calculations of the New Net Trips and make a determination within thirty (30) days of submittal as to whether such calculation complies with the requirements of this Section.

B. For purposes of any Alternative Mobility Fee calculation, the New Construction shall be presumed to have the maximum impact on the City Transportation system for the Trip Generation Land Use Category.

C. The Alternative Mobility Fee calculation of New Net Person Miles Traveled shall be based on data, information or assumptions contained in this Ordinance and the Mobility Fee Study or an independent source, provided that:

(1) The independent source is a generally accepted standard source of transportation engineering or planning information, or

(2) The independent source is a local study supported by a data base adequate for the conclusions contained in such study performed by a professional engineer pursuant to a generally accepted methodology of transportation planning or engineering.

(3) If, during its approval process, a previously approved New Construction project containing the same proposed uses submitted a trip characteristic study substantially consistent with the criteria required by this Section, and if such study is determined by the Mobility Fee Coordinator to be current, the trip characteristics of such previously approved New Construction shall be presumed to be as described in the prior study. In such circumstances, an Alternative Mobility Fee shall be established reflecting the trip characteristics described in the prior study. There shall be a rebuttable presumption that a trip characteristic study conducted more than three (3) years earlier is invalid. A traffic impact study conducted more than seven years earlier is invalid and will not be considered.

(4) It is acknowledged that the Mobility Fee Rates are based upon the applicable Trip Generation Rates for the Trip Generation Land Use Categories corresponding to the Mobility Fee Land Use Categories set forth in the Mobility Fee Study. In recognition of such

acknowledgment, the Trip Generation Rates for the Trip Generation Land Use Categories shall be considered an independent source for the purpose of an Alternative Mobile Fee calculation without the necessity of a study as required by Subsections C(1) and C(2) of this Section.

D. If the Mobility Fee Coordinator determines that the data, information, and assumptions utilized by the Applicant comply with the requirements of this Section and that the calculation of the Alternative Mobility Fee number of Person Miles Traveled was by a generally accepted methodology, then the Alternative Mobility Fee shall be paid in lieu of the fee set forth in Sections 2.01 and 2.02 of this Section.

E. If the Mobility Fee Coordinator determines that the data, information and assumptions utilized by the Applicant to compute an alternative number of Person Miles Traveled using the methodology contained in the Mobility Fee Study do not comply with the requirements of this Section, then the Mobility Fee Coordinator shall provide to the Applicant by certified mail, return receipt requested, written notification of the rejection of the Alternative Mobility Fee and the reasons therefore, including notification that the Mobility Fee imposed in Section 2.01 and 2.02, as applicable, shall be paid in accord with the provisions of this Ordinance.

F. An Applicant who submits a proposed Alternative Mobility Fee pursuant to this Section, and desires to secure Electrical Power Clearance prior to the resolution of a pending Alternative Mobility Fee shall pay the applicable Mobility Fee at the time said Applicant requests Electrical Power Clearance. Said payment shall be deemed paid "under protest" and shall not be construed as a waiver of any rights. Any difference in the amount of the Mobility Fee after resolution of the pending Alternative Mobility Fee shall be refunded to the Applicant or Owner.

G. The Board shall establish an Administrative Fee, payable in addition to the Alternative Mobility Fee, by separate resolution to cover the City's costs incurred in processing and reviewing any Alternative Mobility Fee applications, including fees incurred for review of any applications by third party experts.

**SECTION 2.04. PAYMENT.**

A. The City will provide the amount of the Mobility Fee due for the requested New Construction at the time a Building Permit is issued for said construction.

B. Except as otherwise provided in this Ordinance, an Applicant shall pay the Mobility fee to the City at the time of requesting Electrical Power Clearance for New Construction.

C. The obligation for payment of the Mobility Fee and any credits related thereto shall run with the land.

D. The payment of the Mobility Fee shall be in addition to any other fees, charges or assessments of the City which are due in order to secure Electrical Power Clearance for the New Construction.

**SECTION 2.05. USE OF MOBILITY FEE PROCEEDS.**

A. The City Council hereby establishes one (1) trust account for the Mobility Fee, which shall be maintained separate and apart from all other accounts of the City.

B. All Mobility Fees and all interest which may accrue thereon shall be used solely to provide for the growth contemplated in the Comprehensive Plan and the Mobility Fee Study in the form of Designated Mobility Improvements to the City Transportation System which when completed will serve to accommodate the additional users and transportation demand generated by such growth and maintain existing levels of service within the City.

C. Mobility Fee funds shall not be used for any expenditure that would be classified as a transportation operation and maintenance expense. The monies deposited into the Mobility Fee Trust Accounts shall be used solely for the purpose of constructing or improving the Designated Mobility Improvements to the City Transportation System, as these improvements may be amended from time to time, including, but not limited to:

- (1) design, engineering and construction plan preparation;
- (2) permitting;
- (3) right-of-way acquisition, including any costs of acquisition or condemnation;
- (4) construction of new through lanes;
- (5) construction of new turn lanes;
- (6) construction of new bridges;
- (7) construction of new drainage facilities in conjunction with new roadway construction;
- (8) purchase and installation of traffic signals;
- (9) construction of new curbs, medians and shoulders;
- (10) construction of new shared use and multi-use paths, bike lanes, sidewalks and other bicycle and pedestrian improvements;
- (11) construction of new transit facilities and mobility hubs;
- (12) relocating utilities to accommodate new roadway construction;
- (13) construction management and inspection, including multimodal mobility hub buildings and structures and initial asset capitalization of microtransit, shared use mobility and micromobility solutions;

(14) surveying and soils and material testing;

(15) repayment of monies transferred or borrowed from any budgetary fund of the City which were used to fund any growth impacted construction or improvements as herein defined;

(16) payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the City to provide funds to construct or acquire growth impacted capital transportation improvements on the City Transportation System; and

(17) transportation planning, development and engineering.

Any monies on deposit which are not immediately necessary for expenditure shall be invested by the City. All income derived from such investments shall be deposited in the Mobility Fee Trust Account and used as provided herein. Additionally, any monies on deposit which are not immediately necessary for expenditure may be loaned to another Mobility District to provide capital improvements and additions to Designated Mobility Improvements within that Mobility District, provided such funds, including a reasonable rate of interest, shall be repaid to the Mobility District from which they were borrowed within a reasonable time, not to exceed five years.

G. The City may collect, in addition to the Mobility Fee, up to three percent (3%) of all Mobility Fees received or the actual costs of administration, collection, and the periodic review required under Section 3.09, whichever is less, as an Administrative Fee to defray the costs of administering the Mobility Fee program.

H. The Mobility Fees collected pursuant to this Ordinance may be returned to the then current Owner of the property on behalf of which such fee was paid if such fees have not been expended or encumbered prior to the end of the fiscal year immediately following the eighth



anniversary of the date upon which such fees were paid. Refunds shall be made only in accordance with the following procedure:

(1) The then current Owner shall petition the City for the refund within 180 days following the eighth anniversary date on which the Mobility Fees Fee was paid.

(2) The petition for refund shall be submitted to the Mobility Fee Coordinator and shall contain:

(a) A notarized sworn statement that the petitioner is the current Owner of the property on behalf of which the Mobility Fees Fee was paid;

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

(c) A certified copy of the latest recorded deed; and,

(d) A copy of the most recent ad valorem tax bill.

(3) Within ninety days from the date of receipt of a petition for refund, the Mobility Fee Coordinator will advise the Owner of the status of the Mobility Fee requested for refund, and if such Mobility Fee has not been spent or Encumbered within the applicable time period, then it shall be returned to the Petitioner subject to the extension described in 2.05H(4). For the purposes of this Section, fees collected shall be deemed to be spent or Encumbered on the basis of the first fee in shall be the first fee out.

(5) Any application submitted after the 180 day period provided in 2.05H(1) shall not be accepted and the Applicant shall have no further right to a refund of Mobility Fees.

### **ARTICLE III**

#### **MISCELLANEOUS PROVISIONS**

**SECTION 3.01. EXEMPTIONS.**

A. Subject to the Changes of Size and Use provisions in **Section 3.04** herein, the following shall be exempted from payment of the Mobility Fee:

(1) Alterations, expansion, or replacement of an existing Dwelling Unit which does not result in any additional Dwelling Units or increase the number of families for which such Dwelling Unit is arranged, designed or intended to accommodate for the purpose of providing living quarters.

(2) Subject to **Section 3.04A**, the alteration or expansion of a Building if the Building use upon completion does not increase the number of External Trips under the applicable Mobility Fee Rate which were initially attributed to the Building.

(3) The replacement of a Dwelling Unit, Mobile Home, Building or an Accessory Building or Structure if the replacement Dwelling Unit, Mobile Home, Building or Accessory Building or Structure does not result in a land use generating greater External trips under the applicable Mobile Fee Rate. In the event of a replacement of the primary Building, the existing and replacement structures must be located on the same lot and the electrical Power Clearance for such replacement must occur within five (5) years of the date the previous Building was previously occupied.

(4) The issuance of a tie-down permit on a Mobile Home on which applicable Mobility Fees have previously been paid for the lot upon which the Mobile Home is to be situated. The Electrical Power Clearance must be secured for the replacement Mobile Home within five (5) years of the date the previous Mobile Home was occupied.

(5) Government Buildings or Facilities and Schools. The City is ultimately responsible for funding all Designated Mobility Improvements for which Mobility Fee payments

will be collected including any shortfalls. The cumulative number of trips and resulting PMT from any City proposed development or School Board school facility development will be analyzed and included in the modeled capacity available. Neither the City or School Board will be required to pay Mobility Fees in order to proceed with their respective proposed development. However, any Mobility Fee exemption issued for a Government Building or Facilities or School shall expire if an alteration causes the Government Building or Facility or School facility to no longer be a government Building. The Mobility Fee for other land uses shall not be increased as a result of this exemption for government facilities.

**SECTION 3.02. AFFORDABLE AND WORKFORCE HOUSING MOBILITY FEE DEFERRAL.**

A. Pursuant to the requirements established in this Section, the City shall defer the payment of the Mobility Fees for any new Owner-occupied Residential Construction which qualifies as Affordable Housing or Workforce Housing as defined herein. B. Any Applicant seeking an Affordable Housing or Workforce Housing deferral for proposed Residential New Construction shall file with the Mobility Fee Coordinator an Application for Deferral, prior to requesting Electrical Power Clearance for the proposed Residential New Construction. The Application for Deferral shall contain the following:

- (1) The name and address of the Initial Purchaser;
- (2) The legal description of the residential New Construction;
- (3) The proposed selling price of the residential New Construction;

(4) Evidence that the Residential New Construction shall be occupied by Very Low-Income Persons, Low-Income Persons or Moderate Income Persons, as certified by the Mobility Fee Coordinator; and

(5) Evidence that the residential New Construction is funded by a governmental affordable housing program, if applicable.

C. If the proposed residential New Construction meets the requirements for an Affordable Housing or Workforce Housing Deferral as set forth in this Section, the City Manager shall be authorized to enter into an Affordable Housing Mobility Fee Deferral Agreement (the “Deferral Agreement”) with the developer or the Initial Purchaser, as applicable. The Deferral Agreement shall be accepted by the City in lieu of prompt payment of the Mobility Fees that would otherwise be due and payable but for the Agreement. The Deferral Agreement shall provide for, at a minimum, the following, and shall further include such provisions deemed necessary by the Commission to effectuate the provisions of this Section:

(1) The deferred Mobility Fees shall be a lien on the New Construction for the duration of the deferral period established pursuant to this Section. The lien may be foreclosed upon in the event of noncompliance with the requirements of the Deferral Agreement. The lien shall terminate upon the expiration of a deferral period or upon payment of the lien following a sale or transfer of the New Construction as provided herein. Such termination of the lien shall be evidenced by the recording of a release or satisfaction of lien in the public records of the City. Such release shall be recorded upon payment in full.

(2) Neither the deferred Mobility Fees nor the Deferral Agreement shall be transferred, assigned, credited or otherwise conveyed from the Residential New Construction. The deferral of Mobility Fees and the Deferral Agreement shall run with the land.

(3) In the event the Owner is in default under the Deferral Agreement, and the default is not cured within 30 days after written notice is provided to the Owner, the Commission may at its sole option collect the Mobility Fee amounts in default or bring a civil action to enforce the Deferral Agreement or declare that the deferred Mobility Fees are then in default and immediately due and payable. The Commission shall be entitled to recover all fees and costs, including attorney's fees and costs, incurred by the City in enforcing the Deferral Agreement plus interest at the then maximum statutory rate for judgments calculated on a calendar day basis until paid. In the event the City initially funded the deferred Mobility Fee for the Residential New Construction from other available City revenues, the deferred Mobility Fees collected upon a breach of the Deferral Agreement will be used to repay such City funds.

(4) The Deferral Agreement shall be binding upon the developer or Initial Purchaser's successors and assigns.

(5) The Deferral Agreement shall be recorded in the official records of the City at no cost to the City.

D. To qualify for a deferral under this Section, Owner-occupied residential New Construction must meet all of the following criteria:

(1) The Initial Purchaser(s) or anticipated Initial Purchaser(s) must qualify as Very-Low Income Persons, Low-Income Persons or Moderate Income Persons, as defined herein, at the time of execution by the City of the Deferral Agreement.

(2) The purchase price of the residential New Construction, shall not exceed \$247,500.00.

(3) The residential New Construction shall qualify as "Owner-occupied" if:

(a) a written affirmation from the developer to the City guarantees that the requisite Affordable Housing or Workforce Housing units will be constructed; and

(b) the affirmation is in effect on the date of execution of the Deferral Agreement by the City; and

(c) within six months from the date of Electrical Power Clearance or the execution of the affirmation, whichever is later, any option to purchase is exercised and the qualified Initial Purchaser takes ownership of the residential New Construction. If the qualified Initial Purchaser fails to purchase the residential New Construction within the six-month period, then the deferred Mobility Fees are considered in default as of the date that the Mobility Fees would have been due without the deferral and the Applicant shall pay all of the Mobility Fees that would have been assessed but for the deferral.

(4) The residential New Construction must be the homestead of the Initial Purchaser(s). The Initial Purchaser(s) of the residential New Construction must be at least 18 years of age and must be either citizen(s) of the United States or be a legal alien who permanently resides in the United States. Proof of United States Citizenship or permanent legal residency must be established to the City's sole satisfaction. The residential New Construction must be granted a homestead exemption pursuant to Chapter 196, Florida Statutes, within one year after the initial purchase of the residential New Construction.

(5) No more than 30 Mobility Fee Deferral Agreements are permitted at any single time for an individual developer, or for any developments that are under common ownership; provided, however, that a developer may apply to the Commission for approval to exceed this cap on deferrals for projects that will increase the availability of Affordable Housing or Workforce Housing within the City. For purposes of this subsection, "common ownership"

means ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations, in which a stockbroker, partner, or associate, or a member of his family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.

E. All Mobility Fees deferred at the time Electrical Power Clearance was issued shall become due and payable upon the first occurrence of any sale or transfer of the residential New Construction if such sale or transfer occurs within eight years of the date of Electrical Power Clearance for the residential New Construction.

(1) All such deferred Mobility Fees shall be immediately paid in full to the City not later than the closing date of the sale or the effective date of the transfer.

(2) Repayment shall include any accrued interest. Interest shall be computed at the prevailing prime interest rate established for commercial lenders within the City not to exceed the maximum rate of interest permitted by law.

(3) If the household income of the Initial Purchaser rises above the levels for Very Low-Income, Low Income or Moderate Income Persons, as defined herein, the Initial Purchaser shall maintain the deferral for the duration of their ownership of the residential New Construction.

(4) The deferred Mobility Fees shall be forgiven upon the eighth anniversary of the date of Electrical Power Clearance if the Initial Purchaser does not sell or transfer the property within such deferral period.

F. The amount of the Mobility Fees shall not be increased to replace any revenue lost due to any deferral approved pursuant to this Section.

**SECTION 3.03. ECONOMIC DEVELOPMENT MITIGATION PROGRAM.**

A. Because the imposition of the Mobility Fees herein may place the City in a non-competitive position with other local governments that have chosen not to impose road impact fees or other programs to provide needed transportation improvements to serve future growth, and thus hinder efforts by the City and the community to (1) encourage economic development opportunities within the City; (2) create permanent employment expansion opportunities for the City's citizens; and (3) encourage new or expanded businesses within the City to help reverse the daily commute out of the City, there is hereby created an Economic Development Mobility Fee Mitigation Program for certain land uses to mitigate any real or perceived disadvantage occurring from the imposition of the Mobility Fees.

B. The City has developed a CRA District within the city boundary. The CRA can contribute funds to offset and reduce the net mobility fee assessed to specific land uses and New Construction within specific areas of the city or for specific land use types.

**SECTION 3.04. CHANGES OF SIZE AND USE.** A Mobility Fee shall be imposed for the alteration, expansion or replacement of a Building or Dwelling Unit or the construction of an Accessory Building or Structure if the alteration, expansion or replacement of the Building or Dwelling Unit or the construction of an Accessory Building or Structure results in a land use determined to generate greater External Trips than the present use under the applicable Mobility Fee Rate, and shall be calculated as provided herein:

A. If the Building or Dwelling Unit was continuously vacant and only generating a de minimis number of External Trips for at least five (5) years prior to the date of Electrical Power Clearance for the alteration, expansion or replacement of said Building or Dwelling Unit, then this Section 3.04 shall not apply and the New Construction shall pay the Mobility Fee established in Section 2.01.



B. If Subsection A. of this Section 3.04 is not applicable, then the Mobility Fee shall be calculated as follows:

(1) If the Mobility Fee is calculated on land use and not square footage, the Mobility Fee imposed shall be the Mobility Fee due under the applicable Mobility Fee Rate for the Mobility Fee Land Use Category resulting from the alteration, expansion or replacement, less the Mobility Fee that would be imposed under the applicable Mobility Fee Rate for the Mobility Fee Land Use Category prior to the alteration, expansion or replacement.

(2) If the Mobility Fee is calculated on the basis of square footage and the Square Footage of a Building is increased, the Mobility Fee Rate for the increased Square Footage represented by the New Construction shall be at the Mobility Fee Rate applicable to New Construction with Square Footage resulting from the alteration, expansion or replacement, less the Mobility Fee that would be imposed under the applicable Square Footage prior to the alteration, expansion or replacement.

(3) The Mobility Fee imposed for any Accessory Building or Structure shall be that applicable under the Mobility Fee Rate for the land use for the primary Building.

(4) The Mobility Fee applicable to occupied spec construction and the finished spec space shall be determined pursuant to Section 2.02D herein.

**SECTION 3.05. DEVELOPER CONTRIBUTION CREDIT.**

A. Subject to the terms and conditions of this Section 3.05, a credit shall be granted against the Mobility Fees imposed by this Ordinance for the construction of all or any portion of a Designated Mobility Improvement or for the donation of land or contribution of funds for a Designated Mobility Improvement made pursuant to a development order or voluntarily in connection with a New Construction. The donation, contribution or construction shall only provide

improvements or additions to Designated Mobility Improvements which are required to accommodate growth as projected in the Mobility Fee Study. No credit shall be given for the construction of Access Improvements. Further, no credit shall be given for the donation of land or construction of a capital improvement unless such property is conveyed, in fee simple to the City without remuneration. Such conveyance and construction shall be subject to the approval of the Mobility Fee Coordinator and the following standards:

(1) Any land to be conveyed shall be suitable as right-of-way for the contemplated Designated Mobility Improvement;

(2) Any monetary contribution shall be used in accord with Section 2.05 herein for capital improvements and additions to a Designated Mobility Improvement;

(3) Any improvements to be constructed shall be an integral part of the contemplated Designated Mobility Improvement, shall improve the function thereof, and shall exclude Access Improvements;

(4) Any road right of way or land required to be dedicated to the City as a condition of development approval shall be dedicated by plat no later than the time at which Mobility Fees are required to be paid under this Ordinance;

(5) The design and/or construction of a Designated Mobility Improvement shall be performed by professionals who are qualified under Florida law and the City Code to perform such work.

B. Prior to requesting Electrical Power Clearance, the Applicant shall submit to the Mobility Fee Coordinator a proposed plan for donation, contribution or construction. The proposed plan shall include:

(1) a designation of the New Construction for which the plan is being submitted;

(2) a legal description of any land proposed to be donated and a written appraisal prepared in conformity with subsection D. of this section;

(3) the amount and source of any monetary contribution;

(4) a list of any contemplated improvements to Designated Mobility Improvements;

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

C. The Mobility Fee Coordinator shall review the proposed plan and determine:

(1) If such proposed plan is in conformity with contemplated capital improvements for and additions to Designated Mobility Improvements;

(2) If the proposed donation, contribution or construction by the Applicant is consistent with the public interest; and

(3) If the proposed time schedule for the conveyance of land, contribution of funds or construction is consistent with the City's capital improvement program for the Designated Mobility Improvements;

(4) Upon approval of a proposed plan, the Mobility Fee Coordinator shall determine the amount of credit based upon the standards contained in Subsection D. of this Section and shall approve the timetable for completion of the plan. The Mobility Fee Coordinator shall issue a decision within forty-five days after the filing of the completed proposed plan.

D. The amount of developer credit to be applied to the Mobility Fee shall be:

(1) The value of constructing an improvement to a Designated Mobility Improvement as estimated in the Mobility Fee Study and which formed the basis of the fee. The

successful completion of the project shall comply with Transportation Design Standards accepted by the City Engineer.

(2) The amount of any monetary contribution for a Designated Mobility Improvement.

(3) The value of donated land (when not part of an above Designated Mobility Improvement) based upon a written appraisal of fair market value by an M.A.I. Appraiser who was selected and paid for by the Applicant, and who used generally accepted appraisal techniques. If the appraisal does not conform to the requirements of this Ordinance and any applicable administrative regulations, the appraisal shall be corrected and resubmitted. In the event the Mobility Fee Coordinator accepts the methodology of the appraisal but disagrees with the appraised value, the Mobility Fee Coordinator may engage another M.A.I. Appraiser at the City's expense, and the value shall be an amount equal to the average of the two appraisals. If either party does not accept the average of the two appraisals, a third appraisal shall be obtained, with the cost of said third appraisal being shared equally by the City and the Owner or Applicant. The third appraiser shall be selected by the first two appraisers and the third appraisal shall be binding on the parties.

E. If a proposed plan is approved for credit by the Mobility Fee Coordinator, the Applicant or Owner and the Commission shall enter into a Credit Agreement which shall provide for the parties' obligations and responsibilities, including, but not limited to:

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

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

(3) The amount of the credit as determined in accordance with Subsection D. of this section; and

(4) If required, provisions for a payment bond or an irrevocable letter of credit to be posted with the City, in an amount representing the difference between the Mobility Fee obligation and the amount of any credit from donated land.

F. A credit for a monetary contribution or a land donation shall be granted at such time as the City is in receipt of the full amount of the monetary contribution and/or the donated land has been conveyed to the City, and a Credit Agreement is approved and executed by both the Commission and the Applicant or Owner. A credit for a land donation in conjunction with construction of a Designated Mobility Improvement, or portion thereof, shall be available after a Credit Agreement is approved and executed by both the Commission and the Applicant or Owner, and upon dedication and acceptance by the Commission of the donated land, up to the value of the donated land. A credit for the construction of the Designated Mobility Improvement shall be available once the improvement is completed, dedicated to, and accepted by the City. In the alternative, following the dedication and acceptance of the donated land for a Designated Mobility Improvement, the Applicant or Owner may access the credit for the construction of the Designated Mobility Improvement early by posting a payment bond or irrevocable letter of credit with the City in an amount representing the difference between the Mobility Fee obligation and the value of the donated land. Provided, however, that in the event the Applicant or Owner fails to convey the land to be donated or fails to convey the completed Designated Mobility Improvement or such property or improvement is not ultimately accepted by the City in accordance with the terms of the Credit

Agreement, then the credit shall be revoked and all Mobility Fees shall immediately become due and payable and collected in any manner authorized by law. The administration of said credits shall be the responsibility of the Mobility Fee Coordinator. Mobility Fee credits available for use as provided for in this subsection which are in excess of those required to satisfy the Mobility Fee obligation generated by the New Construction may be transferred in accord with the provisions of **Section 163.31801, Florida Statutes, as amended.**

H. All construction cost estimates shall be based upon and all construction plans and specifications shall be in conformity with the road construction standards of the City or the Florida Department of Transportation as deemed appropriate by the City Engineer. All plans and specifications shall be approved by the City Engineer prior to commencement of construction. **For construction projects within City-owned right-of-way, the requirements set forth in Sections 18-16 through 18-21 of the City of Green Cove Springs Code,** state law and city ordinance bidding requirements and construction bonding requirements shall be deemed to apply to such construction only to the extent required by law.

I. Any Applicant who submits a proposed plan pursuant to this Section and who desires Electrical Power Clearance prior to the resolution of a pending credit shall pay the applicable Mobility Fee at the time of requesting Electrical Power Clearance. Said payment shall be deemed paid “under protest” and shall not be construed as a waiver of any review rights. Any difference shall be refunded to the Applicant or Owner upon the execution of a Credit Agreement.

J. Nothing contained herein shall be construed to qualify the conveyance of land which is required as right-of-way for the construction of Access Improvements for a developer contribution credit.

*Fair Share Agreements*

(4) Any proportionate fair share mitigation payment made pursuant to the Fair Share Program for a particular development's impact on the City Road System shall be treated as a monetary contribution as provided for in Section 3.08 of the IFO.

(5) In the event any proportionate fair share mitigation (monetary payment, donation of right of way or construction of an Authorized Improvement) as provided for under the Fair Share Program, is less than the applicable Road Impact Fee due under the IPO, then the Applicant shall pay the difference to the City to satisfy the Road Impact Fee obligation.

(6) In the event a Road Impact Fee obligation due under the IPO is less than the applicable proportionate fair share mitigation (monetary payment, donation of right of way or construction of an Authorized Improvement) as provided for under the Fair Share Program, then the Applicant shall pay the difference to the City to satisfy the Fair Share Program obligation.

(7) Should the value of any land conveyance, monetary contribution or construction of an Authorized Improvement exceed the Road Impact Fee obligation due from the applicable Road Impact Construction, then the credit received by the Applicant shall be limited to satisfying the Road Impact Fee obligation generated by said Road Impact Construction, and will not be otherwise transferable to another development.

(8) The Fair Share Program mitigation is intended to mitigate the transportation impacts of a proposed development at a specific location. As a result, should the value of any land conveyance, monetary contribution, or construction of an Authorized Improvement under the Fair Share Program exceed the Road Impact Fee obligation due from the applicable Road Impact Construction, then the credit received by the Applicant shall be limited to satisfying the Road Impact Fee obligation generated by the Road Impact Construction, and will not be

**SECTION 3.06. APPLICABILITY.** This Ordinance and the obligations herein for the payment of the Mobility Fee shall apply to all New Construction that requests an Electrical Power Clearance on or after the effective date of this Ordinance, as provided in Section 3.16.

**SECTION 3.07. ALTERNATIVE COLLECTION METHOD.** In the event that an equipment check inspection for Electrical Power Clearance is granted in error by reason of the failure to collect the applicable Mobility Fee, then prompt demand for payment of the Mobility Fee shall be made to the Building Permit holder of the New Construction, and no final inspection shall be made or certificate of occupancy issued until payment of the Mobility Fee has been received. In the event that an Equipment Check Inspection for Electrical Power Clearance is performed in error by reason of the failure to collect the applicable Mobility Fee, and the New Construction has been completed and final authorization for occupancy has been granted, then prompt demand for payment of the Mobility Fee shall be made to the Owner of New Construction for which the Building Permit was issued, and such Mobility Fee shall be subject to collection in any manner authorized by law.

**SECTION 3.08. REVIEW HEARINGS.**

A. An Applicant or Owner who is required to pay a Mobility Fee shall have the right to request a review hearing.

B. Such hearing shall be limited to the review of the following:

(1) The application or calculation of the Mobility Fee under Sections 2.01 and 2.02 of this Ordinance.

(2) The rejection of the Alternative Mobility Fee calculation pursuant to Section 2.03.

(3) The denial or partial denial of a credit pursuant to Section 3.05.



(4) The denial of an Affordable Housing or Workforce Housing Mobility Fee Deferral pursuant to Section 3.02.

(5) The denial or partial denial of an Economic Development Mobility Fee Mitigation waiver pursuant to Section 3.03.

C. Such hearing shall be requested by the Applicant or Owner within thirty (30) days of the following dates:

(1) The issuance of a Building Permit which shall contain the amount of the Mobility Fee that is due for the New Construction;

(2) A negative determination in writing on a proposed Individual or Alternative Mobility Fee pursuant to Sections 2.02 and 2.03, respectively; credit pursuant to Section 3.05; Mobility Fee deferral pursuant to Section 3.02; or Mobility Fee mitigation pursuant to Section 3.03.

(3) Failure to request a hearing within the time provided shall be deemed a waiver of such right.

D. The request for hearing shall be filed with the Mobility Fee Coordinator and shall contain the following:

(1) The name and address of the Applicant or Owner;

(2) The legal description of the property in question;

(3) If issued, the date the Building Permit was issued.

(4) A brief description of the nature of the construction being undertaken;

(5) If paid, the date the Mobility Fee was paid; and

(6) A statement of the reasons why the Applicant or Owner is requesting the hearing.

E. Upon receipt of such request, the Mobility Fee Coordinator shall schedule a hearing before the City Manager called for the purpose of conducting the hearing and shall provide the Applicant and/or Owner written notice of the time and place of the hearing. Such hearing shall be held within sixty days of the date the request for hearing was filed.

F. Such hearing shall be before the City Manager and shall be conducted in a manner designed to obtain all information and evidence relevant to the requested hearing. Formal rules of civil procedure and evidence shall not be applicable; however, the hearing shall be conducted in a fair and impartial manner with each party having an opportunity to be heard and to present information and evidence.

G. Any Applicant who requests a hearing pursuant to this Section who desires Electrical Power Clearance prior to the hearing shall pay the applicable Mobility Fee pursuant to Section 2.01 or Section 2.02, as applicable, at the time of requesting Electrical Power Clearance. Said payment shall be deemed paid “under protest” and shall not be construed as a waiver of any review rights.

H. An Applicant may request a hearing under this Section without paying the applicable Mobility Fee, but Electrical Power Clearance shall not be granted until such Mobility Fee is paid in the amount initially calculated, or the amount approved upon completion of the review provided in this Section.

I. The Board shall establish an Administrative Fee by separate resolution to cover the City’s costs incurred in processing and reviewing any appeals, including fees incurred for review of any applications by third party experts.

**SECTION 3.09. REVIEW REQUIREMENT.** This Ordinance and the Mobility Fee Study shall be reviewed by the CitY Council at least every **five (5) years**. The initial and each

review thereafter shall consider new estimates of population and other socioeconomic data, changes in construction, land acquisition and related costs, and adjustments to the assumptions, conclusions or findings set forth in the Mobility Fee Study adopted by Section 1.04. Each review shall additionally consider changes in right-of-way acquisition and related costs and changes in Trip Generation rates, External Trip lengths, traffic volume counts, and a review of the administrative fees authorized herein. The purpose of this review is to evaluate and revise the Mobility Fee, if necessary, to ensure that they do not exceed the reasonable anticipated costs associated with the improvements and additions necessary to offset the demand generated by the New Construction on the City Transportation System. In the event the review of the Ordinance required by this Section alters or changes the assumptions, conclusions and findings of the studies adopted by reference in Section 1.04, revises or changes the Designated Mobility Improvements, or alters or changes the amount or classification of the Mobility Fee, the Mobility Fee Study adopted by reference in Section 1.04 shall be amended and updated to reflect the assumptions, conclusions and findings of such reviews and Section 1.04 shall be amended to adopt by reference such updates studies.

**SECTION 3.10. PERIODIC MOBILITY FEE RATE ADJUSTMENT.**

A. Beginning on October 1, 2023 and on each October 1 thereafter, the Mobility Fees shall automatically be adjusted by the percent change for the previous Fiscal Year in the **Florida Department of Transportation Price Trends Index**.

B. Provided, however, that in the event the Mobility Fee Coordinator determines that this automatic rate adjustment of the Mobility Fees will cause New Construction to pay more than its fair share of the cost of the Designated Mobility Improvements to the City Transportation

System that are necessary to accommodate the traffic generated by such growth, said automatic rate adjustment will be decreased accordingly.

C. The adjusted Mobility Fees must be noticed in conformance with Section 3.13 prior to going into effect if the adjustment results in an increased Mobility Fee.

**SECTION 3.11. DECLARATION OF EXCLUSION FROM ADMINISTRATIVE PROCEDURES ACT.**

Nothing contained in this Ordinance shall be construed or interpreted to include the City in the definition of Agency as contained in Section 120.52, Florida Statutes, or to otherwise subject the City to the application of the Administrative Procedures Act, Chapter 120, Florida Statutes. This declaration of intent and exclusion shall apply to all proceedings taken as a result of or pursuant to this Ordinance, including specifically, but not limited to, a determination of an Alternative Fee Calculation pursuant to Section 2.03, developer credit hearings pursuant to Section 3.05, and review hearings under Section 3.08.

**SECTION 3.12. ACCOUNTING AND REPORTING OF MOBILITY FEE.** The revenues realized from Mobility Fees imposed pursuant to this Ordinance shall be identified in the City's budget as a separate trust fund account required by Section 163.31801(3)(b), Florida Statutes (2022). The City shall maintain adequate records to justify all expenditures from the Mobility Fee trust fund and any accounts established within such trust fund. The City shall prepare an annual report reflecting the collection and expenditures during the previous year of the Mobility Fees imposed pursuant to this Ordinance.

**SECTION 3.13. NOTICE OF MOBILITY FEE RATES.** Upon adoption of this Ordinance or any amendment hereto imposing new or revised Mobility Fee rates or revising the land use categories for any Mobility Fee, the Mobility Fee Coordinator shall publish a notice once in a newspaper of general circulation within the City which notice shall include: (1) a brief and

general description of the affected Mobility Fee, (2) a description of the geographic area in which the Mobility Fee will be collected; (3) the Mobility Fee Rates to be imposed for each land use category; and (4) the date of implementation of the Mobility Fee Rates set forth in the notice, which date shall not be earlier than ninety (90) days after the date of publication of the notice.

**SECTION 3.14. SEVERABILITY.** The provisions of this Ordinance are severable, and it is the intention to confer the whole or any part of the powers provided for herein. If any clause, section or provision of this Ordinance shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said Ordinance shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein. It is hereby declared to be the legislative intent that this Ordinance would have been adopted had such unconstitutional provision not been included herein.

**SECTION 3.16. EFFECTIVE DATE.**

(A) The Clerk shall file a certified copy of this Ordinance with the Department of State within ten (10) days of its adoption. This Ordinance shall take effect immediately upon its filing with the Department of State.

(B) This Ordinance and the obligations herein for the payment of Mobility Fees shall apply to all New Construction that requests Electrical Power Clearance on or after **February 1, 2023**, provided the notice period set forth in Section 3.13 hereof has expired by this date. If the notice period set forth in Section 3.13 hereof has not expired by February 1, 2023, then the Effective Date of this Ordinance shall be automatically delayed until the expiration of said notice period.

(C) Notwithstanding Subsection (B), any New Construction with an issued or pending Building Permit as of the Effective Date of this Ordinance shall pay the lesser of the applicable

Mobility Fee or the Impact Fee which would have applied under the IFO, at the time of request for Electrical Power Clearance.

**DULY ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2023

**CITY COUNCIL OF GREEN COVE SPRINGS,  
FLORIDA**

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

....

ATTEST:

By: \_\_\_\_\_  
.../

...[ FILE LOCATION ] ...