

ORDINANCE 02-2023

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING THE CODE OF ORDINANCES CHAPTER 67, BY CREATING NEW ARTICLE VIII, TO BE ENTITLED “MOBILITY PLAN & MOBILITY FEES”; PROVIDING FOR AUTHORITY; PROVIDING FOR DEFINITIONS; PROVIDING FOR IMPOSITION OF A FEE SCHEDULE; PROVIDING FOR A PROCESS FOR THE REVIEW OF ALTERNATIVE & SPECIAL FEE DETERMINATIONS, CREDITS; PROVIDING FOR THE ESTABLISHMENT OF MOBILITY FEE BENEFIT DISTRICTS, FUND ACCOUNTS, EXPENDITURES, REFUNDS; PROVIDING FOR REQUIREMENTS FOR ANNUAL REPORTING, REVIEWS AND UPDATES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Lake Park, Florida (“Town”) is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, pursuant to Article VIII, Section (2) of the Florida Constitution and Chapter 166, Florida Statutes, the Town has broad home rule powers which include the authority to adopt ordinances to provide for and operate multimodal transportation systems; and

WHEREAS, section 163.3180(5)(f), Florida Statutes, encourages municipalities to develop tools and techniques including the adoption of legislative policies that will facilitate multimodal service standards that promote non-vehicular modes of transportation, and land development regulations for development and redevelopment that will provide for an acceptable level of personal mobility; and

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

WHEREAS, the Town Commission has adopted objectives and policies in its comprehensive plan to provide for the development of a mobility fee system to implement multimodal capital improvement identified in a mobility plan consistent with Section 163.3180(5)(i), Florida Statutes; and

WHEREAS, the mobility plan adopted herein focuses on person travel demand, which includes walking, biking, transit, and motor vehicular trips, generated by new development or redevelopment as defined in this ordinance, and the resulting impact of that new development on

multimodal capacity which requires the expenditure of revenue for multimodal projects identified in an adopted mobility plan; and

WHEREAS, the mobility plan includes a mobility fee system that takes into consideration the impact of person travel demand generated by new development and redevelopment on multimodal capacity as well as considerations of the impact of new development on overall mobility within the Town; and

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

WHEREAS, the imposition of a mobility fee would require the developers of future growth and those developers redevelopment of land within the Town to contribute their fair share of the cost of growth-necessitated multimodal facilities to further the public health, safety, and welfare of the residents and businesses of the Town; and

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

WHEREAS, the Town Commission finds that this ordinance implements and furthers the goal, objectives and policies of the Transportation Element of the Comprehensive Plan; and

WHEREAS, the Town Commission finds that the mobility fees imposed herein are consistent with the legislative authority given to the town in Sections 163.3180 and 163.31801, Florida Statutes; and

WHEREAS, the Town Commission finds that the adoption of a mobility fee will help to preserve and enhance the rational nexus between the need for multimodal person travel demands generated by new development activity in the Town and the mobility fees imposed on that new development and redevelopment activities based on the multimodal improvements established in the mobility plan; and

WHEREAS, the Town Commission finds that the establishment of a mobility fee benefit district is necessary to regulate mobility fee expenditures and is the best method of ensuring that the multimodal projects funded by mobility fees; and

WHEREAS, mobility fees collected will be deposited in the mobility fee fund created for the related mobility fee benefit district established herein and expended for the purposes set forth herein; and

WHEREAS, the Town has developed a Mobility Plan and Mobility Fee Technical Report dated October 2022 prepared by NUE Urban Concepts, LLC, that provides the technical analysis supporting a mobility fee to fund multimodal improvements on town, county, and state rights-of-way within the Town as identified in the mobility plan; and

WHEREAS, the Town Commission finds that adopting a mobility plan and mobility fee will promote multimodal transportation opportunities to meet the travel demands of town residents and visitors which are generated by development and redevelopment projects in the Town; and

WHEREAS, the mobility fees imposed on new development and redevelopment in the town will provide a funding source for multimodal improvements on town, county, and state rights-of-way within the Town consistent with the mobility plan as set forth in this article; and

WHEREAS, the Town Commission finds that the adoption and implementation of a Mobility Plan and Mobility Fee is within its authority and would further the public health, safety and general welfare.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA:

Section 1. The whereas clauses are hereby incorporated as the legislative findings of the Town Commission.

Section 2. The Commission hereby amends Chapter 67 by creating a new Article VIII to be entitled “Mobility Plan and Mobility Fees” as set forth hereinbelow:

ARTICLE VIII. MOBILITY PLAN AND MOBILITY FEES

Sec. 67-204. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Additive fee means a mobility fee rate based on a unit of measure that generates high levels of person travel demand per unit such as service bays, car wash stalls, or fueling for motor vehicles or drive-thru lanes for banks, quick service restaurants, and pharmacies. Additive mobility fees per unit of measure are assessed in addition to mobility fees assessed per use based on square footage or the applicable unit of measure for the use.

Affordable, attainable, or workforce residential means a dwelling unit and shall include those uses specified in the ITE Trip Generation Manual under the Land Use Code Series 200, except for Land Use Codes 240, 253, 254, and 255. Residential includes accessory dwelling units, dormitories, and tiny homes. The Town may elect to establish a program that establishes criteria to qualify as affordable, attainable or workforce housing. Until the town establishes a program, and a fee payer receives formal approval, the affordable, attainable or workforce housing mobility fee rate would not be applicable.

Assessment area means a geographic area of the town where mobility fees are assessed on development activity.

Bank drive-thru or free-standing ATM means any bank or financial institution with a drive-thru lane used for banking purposes such as deposits, withdrawals, balance inquires, or bill pay. The drive-thru may include either a teller window, pneumatic device for transferring banking information or funds, or an Automated Teller Machine (ATM). An ATM inside or attached to a building that has a use open to the public or end user is not assessed a separate fee as a stand-alone ATM. Credit Unions and Savings and Loans are also considered to be banks for purposes of this definition and the applicable mobility fees. This use also includes free standing bank drive-thru lanes and freestanding walk-up or drive-thru ATM machines. Free-standing ATM's may be either walk-up or feature drive-thru lanes.

Benefit district means areas designated in this article where fees paid by the fee payer are to be expended.

Beverage and restaurant mean a drinking establishment or restaurant including chain and national high turn-over and side down restaurants (non-fast food), bars, nightclubs, or lounges.

Capacity means the maximum sustainable flow rate, at a service standard, at which persons or vehicles reasonably can be expected to traverse a point or a uniform section of a bicycle facility, pedestrian facility, roadway, or shared-use multimodal facility during a given time-period under prevailing conditions. For transit, capacity means the maximum number of persons reasonably accommodated riding a transit vehicle, along with the frequency and duration of transit service.

Commercial and retail uses mean those commercial activities which provide for sale, lease, or rent of goods, products, services, vehicles, or accommodations for use by individuals, businesses, or groups and which include those uses specified in the ITE Trip Generation Manual under Land Use Code Series 800 and 900.

Community serving means those uses that are operated by non-profit civic organizations, governmental entities, foundations, or fraternal organizations, including places of assembly. Community serving also includes uses such as YMCA, museum, art studio, gallery, cultural center, community meeting spaces, community theater, library, or a fraternal or masonic lodge or club, or any community and civic based uses that do not sell retail goods or services for profit and that

participate in community and public activities. Food, beverages, goods, and services may be offered for ancillary fundraising and sales to support the community serving use.

Complete streets means a transportation policy and design approach that requires multimodal transportation improvements to be planned, designed, operated, and maintained to enable safe, convenient and comfortable travel and access for users of all ages [and abilities] regardless of their mode of transportation and to allow for safe travel by those walking, bicycling or using other forms of non-motorized travel, riding public transportation or driving motor vehicles or low speed electric vehicles. Separate and defined spaces are provided for the various modes of travel planned within the street cross-section.

Convenience retail means convenience stores with or without vehicular gas or service stations, coffee, donut, sandwich, food and beverage that would be considered fast food or quick service restaurants.

Development activity means land development or site preparation activity related to any new residential or non-residential construction of buildings or structures, the modification, reconstruction, redevelopment, or upgrade of buildings or structures, any change of use of a building, land, or structure, and any approvals of site plans, special exception uses, variances, or special use permit that results in an increase in person travel demand above the existing use of property.

Fee payer means any applicant, developer, or landowner, who is authorized and wishes to initiate development activity and is therefore responsible for paying mobility fees.

Indoor commercial recreation means facilities that primarily focus on individual or group fitness, exercise, training or provide recreational activities. The uses typically provide exercise, dance or cheerleading classes, weightlifting, yoga, Pilates, cross-fit training, fitness and gymnastics equipment. Indoor commercial recreation also includes uses such as bowling, pool, darts, arcades, video games, batting cages, trampolines, laser tag, bounce houses, skating, climbing walls, and performance centers. Food, beverages, equipment and services related to individual, or group fitness may be offered for ancillary sales.

Industrial means those activities which are predominantly engaged in building and construction trades, the assembly, finishing, processing, packaging, or distribution of goods or products, utilities, recycling, waste management and uses that include brewing and distilling that may have taps, sampling or tasting rooms, and include those uses specified in the ITE Trip Generation Manual under Land Use Code Series 000 and 100 but excluding governmental uses. Industrial uses typically have ancillary office space and may have display or merchandise display areas for various trades and industries that are not open to the general public. Industrial uses are also located in land uses and zoning districts intended for industrial uses. Commercial storage means facilities or acreage in which one or more warehouses, storage units or vaults are rented for the storage of goods and/or acreage or is providing for the storage of boats, RVs, vehicle trailers and other physical items that are larger than what is typically stored within an enclosed structure. The acreage for outdoor storage, excluding drive aisles, buffers, and stormwater management areas, shall be converted to square footage for purposes of calculating the mobility fee. This shall not include an individual's personal property where such items are stored by the owner of the land and not for commercial purposes, subject to allowance by land development and zoning regulations.

Institutional uses mean those public or quasi-public uses in the town that serve the community's social, educational, health, cultural, and religious needs and which include those uses specified in the ITE Trip Generation Manual under the Land Use Code Series 500, and Land Use Codes 253, 254, 255, and 620. Land Use Codes 540 and 550 are included in the definition of office uses. Land Use Codes 580 and 590 are included in the definition of community serving. Federal, state, and local government institutional uses, except for community development districts, are exempt from payment of mobility fees.

ITE Trip Generation Manual means and refers to the latest edition of the report entitled "Trip Generation" produced by the Institute of Transportation Engineers (ITE), and any official updates hereto.

Level of service (LOS) means a quantitative stratification of the level of service provided to a facility, roadway, or service stratified into six letter grade levels, with "A" describing the highest level and "F" describing the lowest level; a discrete stratification of a level of service continuum.

Long term care means adult living facilities designed for the independent or assisted living long term care living facilities, congregate care facilities and nursing homes, with common dining and on-site health facilities for residents that is not a general retail or commercial use open to the public. This use includes ITE Trip Generation Manual Land Use Codes 253, 254, 255, and 620.

Low speed streets mean a multimodal transportation facility based on either the Dutch Woonerf concept that treats all modes equally with no defined spaces for any mode or bicycle boulevards which feature pavement markings, signage and posted speed limits. Low speed streets also include shared streets which typically do not have raised curbs, distinct pavement markings, traffic control devices, defined parking spaces, or vehicular speed limit signs or have posted speed limits 15 miles per hour or less. A low-speed street often features signage and sometimes a speed limit that indicates there are multiple users of the shared street.

Marina means facilities that provide docks and berths for boats. Any buildings for shops, retail, or restaurants would fall under the retail land use and pay the mobility fee rate for retail uses.

Medical office means a building or buildings that provide medical, dental, or veterinary services and care. Medical office shall also include any clinics, emergency care uses, hospitals and any uses specified in the ITE Trip Generation Manual under Land Use Code Series 600, including Land Use Code 720. The Land Use Code 620 for Nursing Homes is excluded from medical offices and included under the definition of long term care.

Micromobility means electric powered personal mobility devices such as electric bicycles, electric scooters, hoverboards, one-Wheel, unicycle, electric skateboards, and other electric assisted personal mobility devices. Low speed vehicles such as golf carts or mopeds are not considered personal micromobility devices.

Microtransit vehicle means low speed vehicles such as autonomous transit shuttles, golf carts neighborhood electric vehicles, or trolleys subject to requirements established by a governmental entity responsible for approval, permitting or regulating said vehicles.

Mobility means the ability to move people and goods from an origin to a destination by multiple modes of travel in a timely (speed) manner.

Mobility fee means a monetary exaction imposed on development activity to fund multimodal projects identified in a mobility plan.

Mobility fee administrator means the Community Development Director or other designee of the City of Lake Park who is responsible for all administrative procedures regarding mobility fees including assessment and determination, collection, and expenditure of mobility fees.

Mobility fee off-set means the equivalent amount of a mobility fee associated with an existing use of a building that is being redeveloped or where a change of occupancy or use is requested. The equivalent mobility fee shall be based on the current use of the building, or the most recent use of the building for a vacant building. Upon demolition of a building, offsets shall be available for up to five years from the date of demolition, unless otherwise provided for in a written agreement with the Town or specified in an implementing ordinance.

Mobility plan means the plan adopted by the Town of Lake Park that identifies multimodal projects to meet the person miles of travel demands of development activity.

Mobile residence means land uses for the temporary or permanent placement of mobile homes, RVs, tiny homes on wheels, or travel trailers within predefined lots or spaces that have connections for communications, electric, water and wastewater. Mobile residential parks may have common amenities and building with recreation uses, laundry and park office.

Mode means the choice of travel that a person undertakes and can include walking, jogging, running, bicycling, paddling, scooting, flying, driving a vehicle, riding a boat, transit, taxi or using a new mobility technology.

Motor vehicle means a car, SUV, truck, van, or motorcycle that is either electric powered, gasoline powered, a hybrid, or some other fuel source that propels the motor vehicle.

Motor vehicle and boat cleaning means a building, stalls, stations, or tunnels for the cleaning, detailing, polishing, washing, or waxing of motor vehicles or boats which fall under the description of ITE Trip Generation Manual Land Use Code Series 800 and 900. The mobility fee is based on both the number of lanes and stalls.

Motor vehicle charging or fueling means the total number of vehicles that can be charged or fueled at one time (fueling positions). Increasingly, land uses such as superstores, (i.e., super Wal-Mart), variety stores, (i.e., Dollar General), and wholesale clubs (i.e., Costco) are also offering vehicle fueling facilities with or without small convenience stores. Outside of Florida, several grocery store chains are also starting to sell fuel. Motor vehicle charging stations that do not require a customer to pay for charging are exempt from payment of the mobility fee.

Multimodal means multiple modes of travel including, but not limited to walking, bicycling, jogging, rollerblading, skating, scootering, riding transit, driving a golf cart, low speed electric vehicle or motor vehicle.

Multimodal projects mean improvements such as sidewalks, bike lanes, trails, paths, protected bike lanes, transit facilities, streetscape, landscape, roundabouts, raised medians, crosswalks, and high visibility crosswalks. Multimodal projects also include shared mobility programs and services, wayfinding, micromobility devices, programs and services, and microtransit vehicles and lanes. Improvements can include new or additional road travel lanes and turn lanes, complete and low speed streets, new or upgraded traffic signals, traffic synchronization,

mobilization, maintenance of traffic, survey, geotechnical and engineering, utilities, construction, engineering and inspection, utility relocation, right-of-way, easements, stormwater facilities.

Multimodal project expenses means expenditures for: (a) the repayment of principal and interest or any redemption premium for loans, advances, bonds, bond anticipation notes, and any other form of indebtedness then outstanding consistent with statutory allowances; (b) reasonable administrative and overhead expenses necessary or incidental to expanding and improving multimodal projects; (c) crosswalks, traffic control and crossing warning devices, landscape, trees, multimodal way finding, irrigation, hardscape, and lighting related to projects; (d) micromobility devices, programs and services, (e) transit circulators, facilities, programs, shuttles, services and vehicles; (f) reasonable expenses for engineering studies, stormwater reports, soil borings, tests, surveys, construction plans, and legal and other professional advice or financial analysis relating to projects; (g) the acquisition of right-of-way and easements for the improvements, including the costs incurred in connection with the exercise of eminent domain; (h) the clearance and preparation of any site, including the demolition of structures on the site and relocation of utilities; (i) floodplain compensation, wetland mitigation and stormwater management facilities; (j) all expenses incidental to or connected with the issuance, sale, redemption, retirement, or purchase of bonds, bond anticipation notes, or other forms of indebtedness, including funding of any reserve, redemption, or other fund or account provided for in the ordinance or resolution authorizing such bonds, notes, or other form of indebtedness; (k) reasonable costs of design, engineering and construction, including mobilization, maintenance of traffic during construction and CEI (construction engineering and inspection) services of related projects, (l) Town administration of multimodal projects, implementation updates to the Mobility Plan and Mobility Fee, including any assessments, counts or studies needed for projects, and (m) local contribution to advance federal, state and county funded projects, repayment of loans from the State of Florida Infrastructure Bank used to front-end the design and/or construction of multimodal projects.

Non-residential square feet means the sum of the gross floor area (in square feet) of the area of each floor level under cover, including cellars, basements, mezzanines, penthouses, corridors, lobbies, stores, and offices, that are within the principal outside faces of exterior walls, not including architectural setbacks or projections. Included are all areas that have floor surfaces with clear standing head room (six feet six inches, minimum) and are used as part of primary use of the property of their use. If an area within or adjacent to the principal outside faces of the exterior walls is not enclosed, such as outdoor restaurant seating, areas used for storage of goods and materials, or merchandise display, and is determined to be a part of the primary use of property, this gross floor area is considered part of the overall square footage of the building. Areas for parking, circulation, ingress, egress, buffers, conservation, walkways, landscape, stormwater management, and easements or areas granted for transit stops or multimodal parking are not included in the calculation of square feet.

Office means banks without drive-thru, financial services without drive-thru, general office, and professional activities primarily involving the provision of professional or skilled services, including but not limited to accounting, legal, real estate, insurance, financial, engineering, architecture, accounting, and technology.

Office uses means those businesses which provide professional services to individuals, businesses, or groups and which include those uses in the ITE Trip Generation Manual under Land

Use Code Series 600 and 700 and includes Land Use Codes 540, 550, 911 and 912. Land Use Code 620 for Nursing Homes in not considered an office use and included under institutional uses.

Off-site improvement means improvements located outside of the boundaries of the parcel proposed for development. Access improvements required to provide ingress and egress to the development parcel, which may include rights-of-way, easements, paving of adjacent or connecting roadways, turn lanes and deceleration/acceleration lanes, sidewalks, bike lanes, trails, paths, transit stops along with required traffic control devices, signage, and markings, and drainage and utilities, shall be considered on-site improvements.

Outdoor commercial recreation means outdoor recreational activity including land uses with miniature golf, batting cages, video arcade, bumper boats, go-carts, golf driving ranges, tennis, racquet or basketball courts, soccer, baseball and softball fields, paintball, skating, cycling or biking that require paid admittance, membership or some other type of fee for use. Buildings for refreshments, bathrooms, changing and retail may be included. The fee shall be based upon the total acreage of the facility for active uses outside of buildings and all buildings used to carry out a primary function of the land use activity. Areas for parking, buffers and stormwater that are not active features of the land use are excluded from the fee acreage. The use would generally fall under the ITE Land Use Code Series 400.

Overnight lodging means places of accommodations, such as bed and breakfast, inns, motels, hotels and resorts that provide places for sleeping and bathing and may include supporting facilities such as restaurants, cocktail lounges, meeting and banquet rooms or convention facilities, and limited recreational facilities (pool, fitness room) intended for primary use by guest(s) and which include those uses specified in the ITE Trip Generation Manual under the Land Use Code Series 300.

Person miles of capacity (PMC) means the number of persons "capacity" that can be accommodated, at a determined standard, on a facility while walking, bicycling, riding transit, driving or using a mobility assisted device over a defined distance.

Person miles of travel (PMT) means a unit used to measure person travel made by one person where each mile traveled is counted as one person mile. PMT is calculated by multiplying person trip length by the number of person trips. The increase in future person miles of travel is used to plan multimodal project needs that form the basis for a mobility fee.

Person travel demand (PTD) means travel demand from development activity based on trip generation, pass-by trips, person trips, person trip lengths, limited access travel, urban area travel, and both the origin and destination of trips. The resulting mobility fees are roughly proportional to the person travel demand per use and assessment area provided on the mobility fee schedule.

Person trip means a trip by one person by one or more modes of travel including, but not limited to, driving a motor vehicle or low speed electric vehicle, riding transit, walking, bicycling or form of person powered, electric powered or gasoline powered device.

Person trip length means the length, in miles, of a person trip per trip purpose.

Pharmacy drive-thru means the drive-thru lanes associated with a pharmacy. The number of drive-thru lanes will be based on the number of lanes present when an individual places or pick-

up a prescription or item. The fee per drive-thru is in addition to the retail fee per square foot for the pharmacy building.

Private education means a building used for pre-school, private school, or day care. Private school (Pre-K to 12) shall mean a building or buildings in which students are educated by a non-governmental entity with grades ranging from pre-kindergarten to 12th grade. Private schools do not include charter schools, which are exempt from local government fees per Florida Statute. Day care shall mean a facility where care for young children or for older adults is provided, normally during the daytime hours. Day care facilities generally include classrooms, offices, eating areas and playgrounds.

Quick service restaurant drive-thru means a quick service restaurant where an order for food is placed or a pick-up/delivery lane where an order is picked-up by either a customer that placed an online order or a delivery service. Quick service restaurants are establishments serving beverages, food, or both with higher turnover, quick service, and may feature either counter service or selection of items from a counter and would fall under the descriptions of ITE Trip Generation Manual Land Use Codes 930, 933, 934, 935, 936, 937, and 938. The vehicle will proceed to one or more common pick-up windows, lockers, stations, or functional equivalent after the order has been placed. Quick service restaurant with drive-thru may be located in multi-tenant retail or free-standing retail buildings. This use also includes any quick service restaurants that do not offer indoor seating and are intended to primarily be served by vehicle delivery services or pick-up or drive-thru only orders placed online. These uses may provide a walk-up order window.

Quality of service (QOS) means a quantitative stratification of the quality of service of personal mobility stratified into six letter grade levels, with "A" describing the highest quality and "F" describing the lowest quality; a discrete stratification of a quality-of-service continuum.

Recreation uses mean those public or quasi-public uses that serve a community's social, cultural, fitness, entertainment, and recreational needs, which include applicable land uses specified in the ITE Trip Generation Manual under Land Use Code Series 400 and 500.

Residential uses mean a dwelling unit and shall include those uses specified in the ITE Trip Generation Manual under the Land Use Code Series 200.

Residential means a dwelling unit and shall include those uses specified in the ITE Trip Generation Manual under the Land Use Code Series 200, except for Land Use Codes 253, 254, and 255. Residential includes tiny homes, accessory dwelling units, and dormitories.

Residential square feet means the sum of the area (in square feet) of each dwelling unit measured from the exterior surface of the exterior walls or walls adjoining public spaces such as multifamily or dormitory hallways, or the centerline of common walls shared with other dwelling units. Square feet include all livable, habitable, and temperature controlled enclosed spaces (enclosed by doors, windows, or walls). This square footage does not include unconditioned garages or unenclosed areas under roof. For multifamily and dormitory uses, common hallways, lobbies, leasing offices, and residential amenities are not included in the square feet calculation, unless that space is leased to a third-party use and provides drinks, food, goods, or services to the public or paid memberships available to individuals that do not reside in a dwelling unit.

Residential and lodging uses means a dwelling unit or room in overnight accommodations or mobile home or RV park and shall include those uses specified in the ITE Trip Generation Manual

under the Land Use Code Series 200 and 300 and Land Use Code 416. Land Use Codes 253, 254, and 255 are considered institutional uses.

Retail means entertainment, personal service, restaurant, and retail uses. This includes land uses under ITE Land Use Codes Series 400, 800, and 900. Retail includes all uses that do not fall under Beverage & Restaurant or Convenience Retail.

Service standard means the adopted or desired quality or level of service for a bicycle facility, pedestrian facility, roadway, shared-use multimodal facility, or transit.

Shell building means the foundational and structural elements that separate interior and exterior space and includes the roof, walls, windows, doors, mechanical systems, and rough plumbing and electric. Common areas are typically finished. Interior spaces are designed to be finished by the tenant with wall coverings, ceiling, flooring, lighting, electrical and plumbing finishes, and furnishings. The floor may or may not be finished with concrete to allow for flexibility in the location of plumbing service lines.

Small retail business means entertainment, personal service, restaurant, and retail uses. Buildings maybe either free-standing or multi-tenant. The Town of Lake Park may elect to establish a program that establishes criteria to qualify as a small retail business. Until the Town establishes a program, and the fee payer receives formal approval, the small retail business mobility fee rate would not be applicable. This includes land uses under ITE Land Use Codes Series 400, 800, and 900.

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

Trip means travel between locations, often times between an origin, such as a home, to a destination, such as a business, but the trip can end and begin at the same location, such as walking a dog in the neighborhood where the home is both the origin and destination.

Trip purpose means the primary purpose at the destination of a trip such as travel to buy goods, services, or meals, entertainment, recreation, school, work, places of assembly, errands, medical, day care, or work related. Trip purpose may be either home based, meaning the trip originates at a residence, or non-home based, meaning the trip originates at a destination other than a residence.

Vehicle miles of travel (VMT) means a unit to measure vehicle travel made by a motor vehicle where each mile traveled is counted as one vehicle mile regardless of the number of persons in the vehicle. VMT is calculated by multiplying the length of a road segment by the total number of vehicles on that road segment.

Vehicle trip means a single motor vehicle, regardless of the number of persons in the motor vehicle.

Sec 67-205. Short Title, Authority, and Applicability

This article shall be known and may be cited as the "Town of Lake Park Mobility Fee Ordinance."

Sec. 67.206. Authority The Town of Lake Park has the authority to adopt this article pursuant to its home rule powers under its Charter, Article VIII of the Florida Constitution, and Chapters 163, 166 and 380 of the Florida Statutes. In particular, the town has the authority to provide a multimodal transportation system comprised of sidewalks, bicycle lanes, multimodal lanes, multimodal ways, shared-use paths, multi-use trails/greenways, low speed lanes, corridors, roads, streets, traffic calming elements, waterfront promenades, intersection improvements, safety enhancements, pedestrian and vehicle signals, high-visibility crosswalks, rectangular rapid flashing beacons (RRFB), high-intensity activated crosswalks (HAWK), roundabouts, signalized roundabouts, hardscape, streetscape, landscape, lighting, and mobility services and programs, in the Town.

Sec. 67-207. Applicability

The Mobility Plan applies to all new development, redevelopment, changes of use, and alterations or changes of uses in land within the Town (collectively known as “development activity”), that generates an increase in person travel demand above the existing use of property and generates a need for multimodal projects in the Town.

The Mobility Fee is to be applied to multimodal projects needed to serve development activity that generates additional person travel demand for multimodal facilities, services and programs, and the subsequent implementation of a Mobility Plan, is a responsibility of the Town.

(Ord. No. XX-2022)

Sec. 67-208. Intent and purpose.

- (a) *Imposition.* This article is intended to impose a mobility fee, assessed at building permit application and payable no later than issuance of a building permit, in an amount based upon the average amount of new person travel demand attributable to development activity and the average cost of providing the multimodal capacity needed to serve such new person travel demand. This article shall not be construed to authorize imposition of fees related to multimodal project needs attributable to existing development.
- (b) *Consistency with transportation concurrency.* This article is intended to allow the fee payer, in compliance with the Town’s and Palm Beach County’s Comprehensive Plans, to share in the burdens of growth. The fee payer shares this burden by paying a pro rata share of the reasonably anticipated costs of multimodal projects needed to accommodate the person travel demands created by development activity in the Town as well as by complying with other appropriate development order conditions. This article is intended to provide flexibility to address the burdens of growth created by individual development and redevelopment that, because of location, timing, or other characteristics, require different treatment in the form of reduced fees or supplemental requirements.
- (c) *Technical report.* The mobility fees legislatively adopted herein are based upon the calculation methodology incorporated in the "Town of Lake Park 2045 Mobility Plan and Mobility Fee Technical Report" October 2022, prepared by NUE Urban Concepts, LLC (the Technical Report).

(Ord. No. XX-2022)

Sec. 67-209. Adoption of mobility plan and mobility fee technical report.

The Technical Report is hereby adopted by reference into this article and includes, the following: the multimodal projects included in the mobility plan, the basis of the assumptions, conclusions, and findings in such study as to the basis of the mobility fee, the methodology for calculating the mobility fee, the person miles of capacity assigned to multimodal capital improvements and the person travel demand assigned to various land use categories. The Technical Report presents the technical analysis and detailed methodology supporting the Town of Lake Park Mobility Fees consistent with the multimodal projects included in the Town of Lake Park 2045 Mobility Plan. The Town of Lake Park 2045 Mobility Plan consist of two (2) separate plans: 1) Complete Streets Plan 2) Streetscape, Street Trees, and Landscape Enhancement Plan. The Complete Streets Plan consists of both specific multimodal corridor and intersection projects for future consideration reflected on the Plan maps and next step recommendations for services and programs not reflected on the Plan map. The Streetscape, Street Trees, and Landscape Enhancement Plan is a preliminary, supplemental plan that identifies priority corridors for consideration for a next step town beautification program. The Technical Report shall be maintained and made available by the Town upon request.

(Ord. No. XX-2022)

Sec. 67-210. Mobility fee imposition.

(a) *Applicability.* The mobility fee imposed by this section shall apply to development activity that requires issuance of a building permit after January 18, 2023.

(1) This section shall not be imposed on building permits otherwise necessary for:

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

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- f. A federal, state, county, municipal, or governmental entity structure, excluding Community Development Districts or Special Districts. Public and charter schools for Pre-K to 12th Grade are exempt from mobility fees per Florida Statute; community colleges, colleges, and universities are not exempt.
- (2) There is hereby imposed upon all development activity, as herein defined, a mobility fee assessed at the time of building permit application and payable at the time of issuance of the building permit. No building permit shall be issued until said mobility fee has been paid except as otherwise herein provided. Mobility fees are assessed at the mobility fee rate in effect at the time of building permit application. If the permit is for less than the entire contemplated development, the fee shall be computed for the amount of development covered by the building permit. The obligations for payment of mobility fees shall run with the property.
- a. Additionally, a mobility fee shall be imposed for any structure that is altered, expanded, or replaced that requires the issuance of a building permit and results in an increase in person travel demand above the existing use of the property.
- b. The mobility fee is calculated on the basis of the person travel demand generated from the land use. If the person travel demand increases due to a change in size or use, and a building permit is required the mobility fee due shall be the incremental difference resulting from the alteration, expansion, or replacement as determined by the mobility fee schedule, less the mobility fee that would be imposed under the applicable rate prior to the alteration, expansion, or replacement.
- c. In the event that there is a change in use that results in a decrease in person travel demand generated by the previously allowed use, [the fee payer] shall not be entitled to a refund or credit.
- d. A structure or use of property that is inactive and has been abandoned for a period of more than three (3) years shall not be considered an existing or active use for purposes of calculating mobility fee off-sets. The Mobility Plan and Mobility Fee are to be updated every four (4) years and person travel demand is measured on a yearly basis. Therefore, person travel associated with the use is no longer captured in collected travel demand data which is used to plan for future needed mobility projects. The burden of demonstrating the existence of a use or structure shall be upon the fee payer where an off-set request is made.
- e. For uses and structures considered to be active, any previous payment of proportionate share or mobility fees under this article may be credited against the appropriate mobility fees owed as a result of a change of use or reestablishing a use of land or structure that has been vacant but not considered abandoned.
- f. Any request for credit or offsets of a mobility fee shall be made prior to the submittal of a building permit application and shall be resolved prior to issuance of a building permit, unless otherwise stated in a written agreement per the fee payer and the Town. Any off-sets or credits not so claimed shall be deemed waived by the fee payer.
- g. Vacation rentals shall pay a mobility fee per bedroom, except for kitchens and bathrooms or unenclosed accessory spaces. The conversion of any existing

residential use shall be required to pay the difference between a mobility fee based on the square footage of the home and the mobility fee based on the number of rooms for the vacation rental.

- h. Development activity that does not initially require a building permit is encouraged to pay its mobility fee at the time of approval of the development activity, as any future development activity that requires a building permit shall be required to pay the mobility fee in effect at the time of building permit application, regardless of the time frame between approval of the development activity and the application of a building permit.
 - i. The fee payer may elect to pay its mobility fee prior to issuance of a building permit. If the mobility fee assessed at the time of building permit application is higher than the prepayment, development activity shall pay the difference prior to issuance of a building permit. If the mobility fee assessed at the time of building permit application is lower than the prepayment, development activity will be allowed to request a refund for the difference. No interest will be included with the refund. The refund request process is provided for in section 67-217(c).
 - j. The mobility fee shall be paid in its entirety for any shell building space. The fee shall be based on the underlying land use for the building. Any use that will result in an increase in person travel demand above the current use of a shell space shall pay the difference in mobility fees based on the mobility fee schedule in effect at the time of the request. Refunds shall not be issued for less intense uses as uses in the shell buildings change over time. The fee payer of the shell building shall be required to pay any mobility fees due to an increase in person travel demand, unless the owner includes a disclosure in a signed contract between the entity selling or leasing the space and the end user where the end user acknowledges, in writing, that they are responsible for payment of mobility fees to the Town.
 - k. The Town Manager, in consultation with the Town Attorney may take such actions as are determined to be legal and necessary related to the imposition or payment of the fee, to make determinations of credit or off-set utilization, or such other actions to address unique circumstances that may arise for time to time that are not expressly addressed herein.
- (b) *Mobility fee schedule.* Any fee payer who shall initiate any development activity, except as otherwise provided for herein, shall pay a mobility fee, based on the applicable assessment area established in the Technical Report which is incorporated by reference herein and the following mobility fee schedule:

<u>MOBILITY FEE SCHEDULE</u>		
<u>Use Categories, Land Uses Classifications, and Representative Land Uses</u>	<u>Unit of Measure</u>	<u>Mobility Fee</u>
<u>Residential and Lodging Uses</u>		
<u>Affordable, Attainable or Workforce Residential</u>	<u>per sq. ft.</u>	<u>\$0.43</u>
<u>Residential</u>	<u>per sq. ft.</u>	<u>\$0.86</u>
<u>Overnight Lodging (Hotel, Inn, Motel, Resort)</u>	<u>per room</u>	<u>\$971</u>
<u>Mobile Residence (Mobile Home, Recreational Vehicle, Travel Trailer)</u>	<u>per space or lot</u>	<u>\$633</u>
<u>Institutional Uses</u>		
<u>Community Serving (Civic, Museum, Performing Arts, Place of Assembly or Worship)</u>	<u>per sq. ft.</u>	<u>\$0.82</u>
<u>Long Term Care (Assisted Living, Congregate Care Facility, Nursing Facility)</u>	<u>per sq. ft.</u>	<u>\$0.47</u>
<u>Private Education (Day Care, Private Primary School, Pre-K)</u>	<u>per sq. ft.</u>	<u>\$0.64</u>
<u>Industrial Uses</u>		
<u>Industrial (Assembly, Brewing, Distilling, Fabrication, Flex Space, Manufacturing, Trades, Utilities)</u>	<u>per sq. ft.</u>	<u>\$0.63</u>
<u>Industrial (Distribution, Fulfillment, Nursery, Outdoor Storage, Storage, Warehouse)</u>	<u>per sq. ft.</u>	<u>\$0.23</u>
<u>Recreational Uses</u>		
<u>Marina (including dry storage)</u>	<u>per berth</u>	<u>\$358</u>
<u>Outdoor Commercial Recreation (Amusement, Golf, Multi-Purpose, Parks, Sports, Tennis)</u>	<u>per acre</u>	<u>\$1,812</u>
<u>Indoor Commercial Recreation (Dance, Gym, Fitness, Indoor Sports, Kids Activities, Yoga)</u>	<u>per sq. ft.</u>	<u>\$3.43</u>
<u>Office Uses</u>		
<u>Office (Financial, General, Higher Education, Hospital, Professional)</u>	<u>per sq. ft.</u>	<u>\$1.25</u>
<u>Medical Office (Clinic, Dental, Emergency Care, Medical, Veterinary)</u>	<u>per sq. ft.</u>	<u>\$3.17</u>
<u>Commercial & Retail Uses</u>		
<u>Small Retail Business (Entertainment, Restaurant, Retail, Services)</u>	<u>per sq. ft.</u>	<u>\$1.14</u>
<u>Retail (Discount, Entertainment, Financial, Retail, Services, Superstore)</u>	<u>per sq. ft.</u>	<u>\$2.28</u>
<u>Beverage & Restaurant (Chain and National High Turn-Over & Sit-Down Bar and / or Restaurant)</u>	<u>per sq. ft.</u>	<u>\$5.08</u>
<u>Convenience Retail (Convenience, Motor Vehicle Charging & Fueling, Quick Service Restaurant)</u>	<u>per sq. ft.</u>	<u>\$12.54</u>
<u>Additive Fees for Commercial Services & Retail Uses</u>		
<u>Bank Drive-Thru Lane or Free-Standing ATM</u>	<u>per lane or ATM</u>	<u>\$8,093</u>
<u>Motor Vehicle & Boat Cleaning (Detailing, Wash, Wax)</u>	<u>per lane or stall</u>	<u>\$3,121</u>
<u>Motor Vehicle Charging or Fueling</u>	<u>per charging</u>	<u>\$3,221</u>

	<u>or fueling position</u>	
<u>Pharmacy Drive-Thru</u>	<u>per lane</u>	<u>\$2,646</u>
<u>Quick Service Restaurant Drive-Thru</u>	<u>per lane</u>	<u>\$6,139</u>

(Ord. No. XX-2022)

Sec. 67-211. Mobility fee determination.

- (a) Determination. The mobility fee shall be determined using the use classifications in the mobility fee schedule set forth in section 67-210(b).
- (b) Closest use determination. In the event a project involves a use not contemplated under the mobility fee use classifications in section 67-210(b), the mobility fee administrator shall determine the mobility fee utilizing the closest use classifications in the Mobility Plan and Mobility Fee Technical Report adopted in section 67-209 by Town Resolution.
- (c) Mixed-use. For mixed-use development projects, the mobility fee administrator shall determine the mobility fee based on each separate mobility fee use classification included in the proposed mixed-use project. Marinas and overnight lodging with restaurants, bars, shops, meeting space, offices, and other amenities that are leased or sold to a third party and are open to the public and are not limited to guests shall pay a mobility fee based on the square footage of the uses open to the public, in addition to the mobility fees per room. Meeting spaces and office uses shall be classified as office, while restaurants, shops, bars, and other amenities shall be classified as small business retail, retail, or beverage & restaurant.
- (d) Outdoor storage. For commercial uses with outdoor storage for construction, farm, or yard material, goods, landscape, materials, merchandise, nursery and garden supplies, or boats, RVs, trailers, or vehicles, the acreage of the outdoor storage area shall be converted into square feet for purposes of calculating mobility fees. Uses that sell new or used boats, RVs, trailers, or vehicles are not classified as an outdoor storage use.
- (e) Food truck or container courts. Commercial uses with spaces for food trucks or converted shipping containers shall be evaluated as retail with square footage based on all structures, any pads or envelopes for food trucks, and any areas for outdoor seating. For commercial uses that also offer an outdoor recreational component, the recreational acreage shall be assessed as outdoor commercial recreation. Elevated walkways or coverage over those walkways, so long as seating is not provided, shall not be considered a structure for square footage purposes. For any commercial use providing a designated space for one (1) or more food trucks, whether long term or short-term duration, that requires a building permit shall pay a mobility fee per the small business or retail use with the square footage based on the pad or envelop for the food truck.
- (f) Additive fees. Additive mobility fees are assessed for high impact uses and are in addition to mobility fees for the square footage of the buildings and structures based on applicable mobility fee rates. The determination of additive mobility fees shall be based on the following:
 - (1) Each bank building shall pay the office rate for the square footage of the building. Drive-thru lanes, free-standing ATM's and drive-thru lanes with ATM's are assessed an

- additive fee per lane or per ATM and are in addition to any mobility fee per square foot associated with a bank building. The free-standing ATM is for an ATM only and not an ATM within or part of another non-financial building, such as an ATM within a grocery store. In some instances, drive-thru or walkup ATM's maybe freestanding and only assessed the additive mobility fee rate if there is not an associated bank building.
- (2) Motor vehicle or boat cleaning shall mean any car wash, wax, or detail where a third party or automatic system performs a cleaning service on a motor vehicle or boat. Mobility fees are assessed per lane or stall, plus a retail mobility fee rate associated with any additional building square footage.
- (3) Motor vehicle charging or fueling mobility fee rates are per vehicle charging or fueling position and shall apply to a convenience store, gas station, general store, grocery store, supermarket, superstore, variety store, wholesale club or service stations with fuel pumps. In addition, there shall be a separate mobility fee for the square footage of any retail building per the applicable mobility fee rate. The number of charging or fueling positions is based on the maximum number of vehicles that could be charged or fueled at one time. Uses that do not charge a fee for vehicle charging will not be assessed a mobility fee per charging location.
- (4) Any drive-thru associated with a pharmacy shall be assessed an additive mobility fee per drive-thru lane in addition to the applicable retail mobility fee rate per square foot of the building. The number of drive-thru lanes shall be based on the number of lanes present when an individual places or pick-up a prescription or item.
- (5) Any drive-thru associated with a quick service restaurant shall be an additive fee in addition to applicable retail mobility fee rate per square foot of the building. The number of drive-thru lanes shall be based on the number of lanes present when an individual places an order or picks up an order, whichever is greater.
- (g) Assessment. The mobility fee shall be determined using the appropriate use category, use classification, assessment rate, and rate established per section 67-2010(b).
- (h) Alternative determination. Alternative mobility fee or special mobility fee determinations are permitted. In the event a fee payer believes that the cost to mitigate the impact of the development of improvements needed to serve the fee payer's proposed development is less than the fee established in this section, the fee payer may request consideration of and submit an alternative mobility fee or special mobility fee determination request, along with an application and review fee as determined by the town, and support materials to substantiate the request to the mobility fee administrator pursuant to the provisions of this article. If the mobility fee administrator finds that the data, information, assumptions, formulae, and methodology used by the fee payer to calculate the alternative mobility fee or special mobility fee satisfy the requirements of this section, the alternative mobility fee or special mobility fee shall be deemed the mobility fee due and owing for the proposed development.
- (1) The mobility fee administrator shall be responsible for calculating mobility fees in accordance with the provisions of this article. If a fee payer believes project impacts are lower than justified by the findings of this article, or believes the proposed use is incorrectly assigned as identified in the mobility fee schedule, or that the assumptions that derive the mobility fee are not applicable to a specific proposed land use, an

adjustment to the fees may be requested by submitting an application and a review fee. The mobility fee administrator shall determine whether the request is to be reviewed as either an alternative mobility fee determination or a special mobility fee determination], based upon the impact of the proposed land use on Town mobility. The process for reviewing alternative mobility fee determinations is set forth below in section 67-211(h)(2). The process to be followed for special mobility fee determinations for minor projects with significantly less impacts is set forth in section 67-211(i).

(2) Alternative mobility fee determination.

- a. The alternative mobility fee determination shall be based on data, information, assumptions, formulae, and methodology contained in this article and the mobility fee study referred to in section 67-210(b), or independent sources, provided that:
 1. The independent source is (an) accepted standard source of transportation engineering or planning data or information; or
 2. The independent source is a local study carried out by a qualified traffic planner or engineer pursuant to an accepted methodology of planning or engineering; or
 3. Where different data, information, assumptions, formulae, or methodology are employed such differences shall be specially identified and justified.
- b. An alternative mobility fee calculation shall be undertaken through the submission of an application for review of an alternative mobility fee determination for the mobility fee component for which an alternative mobility fee calculation is requested. A fee payer shall submit such an application prior to submittal of a building permit application or as otherwise agreed to in a mobility fee agreement. The town may submit such an application for any development activity for which it concludes the nature, timing or location of the proposed development makes it likely to generate impacts costing substantially more to remedy than the amount of the fee to be paid based upon the mobility fee schedule in section 67-210(b).
- c. Within twenty (20) working days of receipt of an application for review of an alternative mobility fee determination, the mobility fee administrator, shall determine if the application is complete. If the mobility fee administrator determines that the application is not complete, a written statement specifying the deficiencies shall be sent to the fee payer. The application shall be deemed complete if no deficiencies are specified. The mobility fee administrator shall take no further action on the application until it is deemed complete by the mobility fee administrator.
- d. When the mobility fee administrator determines the application is complete, the application shall be reviewed and a written decision shall be rendered in thirty (30) working days on whether the mobility fee should be modified, and if so, what the amount of the mobility fee should be.
- e. If the mobility fee administrator finds that the data, information, assumptions, formulae and methodology used by the fee payer to compute the alternative mobility fee calculation satisfies the requirements of this article, the re-determined mobility fee shall be deemed the mobility fee due and owing for the proposed land

development activity. This adjustment in the fee shall be set forth in a mobility fee agreement which shall be entered into pursuant to sections 67-212 (b) and (c).

- f. A determination by the mobility fee administrator that the alternative mobility fee re-determination does not satisfy the requirements of this article may be appealed in accordance with this article.
- g. The fee payer shall be responsible for the full costs that the Town may incur to review the alternative mobility fee data and methodology which may include the town's consultant and legal costs. Payment shall be due at the time of the request for the alternative calculations.
- h. A fee payer who submits a proposed alternative mobility fee pursuant to this article and desires the issuance of a building permit prior to the resolution of the pending alternative mobility fee shall pay the applicable mobility fee no later than at the time of issuance of the building permit. Said payment shall be deemed paid "under protest" and shall not be construed as a waiver of any rights. Any difference in the amount of the mobility fee after the determination of the pending alternative mobility fee shall be refunded to the fee payer.
- (i) *Special mobility fee determination.* A fee payer may request a special mobility fee determination for smaller, less intense projects when data and information are presented that substantiates that a project has unique characteristics other than those upon which the mobility fee calculation was based. It is the fee payer's responsibility to submit adequate justification and support data to substantiate a lower impact to mobility fee administrator. The mobility fee administrator may review the request and ask for additional information. The fee payer is responsible for additional costs that the Town may incur to review these special requests, including consultant and legal costs. Payment shall be due at the time of request for the determination.
- (j) *Town initiated mobility fee determination.* The mobility fee administrator shall determine mobility fees. Unique uses, changes in market dynamics related to uses, and updates to trip generation or household travel data may necessitate that the mobility fee rate for one or more uses that have been established by the town should be amended.
- (k) *[Review of mobility fee reductions.* Any alternative, special, or town initiated mobility fee determinization that results in a reduction of more that twenty-five (25) percent of the calculated mobility fee in section 67-210(b), as adjusted for inflation per section 67-220, shall require approval by the Town commission or the review body approved by the Town commission.
- (l) The Town Manager, in consultation with the Town Attorney may act related to determination of use, request to reconsider determinations, use of credit or off-sets, acceptance of alternative studies, payment of the fee, timing of payment, updates of the fee and to address unique circumstances that may arise for time to time that are not expressly addressed herein.

(Ord. No. XX-2022)

Sec. 67-212. Presumptions, agreements, and security requirements.

- (a) Impact. A proposed development shall be presumed to generate the maximum impact generated by the most intensive use permitted under the applicable Comprehensive Plan, zoning or land development regulations or under an applicable deed or plat restrictions.
- (b) Mobility fee agreement. In lieu of the payment of fees as calculated in section 67-210 (b) or 67-211(e), any fee payer may propose to enter into a mobility fee agreement with the town designed to establish just and equitable fees or their equivalent and standards of service appropriate to the circumstances of the specific development proposed. A mobility fee agreement may include, but shall not be limited to, provisions which:
- (1) Modify the presumption of maximum impact set forth in section 67-212(a) and provide a mobility fee which may differ from that set forth in section 67-210(b) or 67-211(e), by specifying the nature of the proposed development for purposes of computing actual impact, provided that the agreement establishes a legally enforceable means for ensuring that the impact does not exceed the impact generated by the approved development order;
 - (2) Permit the construction of specific improvements in lieu of or with a credit against the mobility fees to be assessed and/or pursuant to a payback schedule, allow the fee payer to recover the actual cost of such improvements in excess of the amount which would have been assessed by section 67-210(b) as subsequent users of such improvements obtained building permits and pay mobility fees;
 - (3) Permit a schedule and method for payment of the mobility fees in a manner appropriate to the particular circumstances of the proposed development in lieu of the requirements for payment of the fees as set forth in section 67-210, provided that security is posted ensuring payment of the fees, in a form acceptable to the town, which security may be in the form of a cash bond, surety bond, irrevocable letter of credit, negotiable certificate of deposit or escrow account, or lien or mortgage on lands to be covered by the building permit.
- (c) Mobility fee agreement approval. Any agreement proposed by a fee payer pursuant to section 67-212 shall be presented to and approved by the Town Manager for amounts less than \$15,000.00 and the Town Commission for amounts of \$15,000.00 or more prior to the issuance of a building permit. A mobility fee agreement may provide for execution by mortgages, lienholders, or contract purchasers in addition to the landowner, and may permit any party to record such agreement in the official records of Palm Beach County, whichever applicable. The Town Manager or Town Commission shall approve such an agreement only if it finds that the agreement apportions the burden of expenditure for new facilities in a just and equitable manner.

(Ord. No. XX-2022)

Sec. 67-213. Mobility fee credits.

- (a) Capital improvements program. Only multimodal projects included in the town's capital improvements program or in the adopted Mobility Plan shall be eligible for mobility fee

credits, except as provided for in section 67-213(b). A fee payer may request that the Town Commission add multimodal projects to the capital improvements program, which is required by F.S. § 163.3177. The multimodal projects requested for inclusion in the capital improvements program shall be based upon the Mobility Plan.

- (b) *Adopted plans.* Multimodal projects included in plans adopted by the Town Commission, the town's community redevelopment agency, the Palm Beach County Transportation Planning Agency (TPA), the Florida Department of Transportation (FDOT), Palm Beach County, a Transit Authority, a State of Florida Department, the Treasure Coast Regional Planning Council, or other governmental entity or utility provider may be eligible for credit if the mobility fee administrator, in consultation with the town's Community Development Department, determine the multimodal project implements the mobility goals of the town's Comprehensive Plan.
- (c) *Development orders or permits.* A fee payer may request mobility fee credit against any mobility fee assessed pursuant to section 67-210(b) in an amount equal to the cost of multimodal projects or contributions of land, money or services for multimodal projects contributed or previously contributed, paid for, or committed to by the fee payer or his predecessor in interest where the multimodal project is a condition of a development order or permit.
- (d) *Plan and code requirements.* Multimodal projects shall meet minimum requirements of the town's applicable Land Development Regulations requirements are not eligible for any mobility fee credit. Site access improvements for turn lanes, sidewalks, bike lanes, paths, trails, mobility hubs, roundabouts, or traffic signals internal to a development, along the adjacent boundary of the development, at development entrances, or immediately adjacent to the development which have been determined by the town to be site-related are not eligible for any credit, except as provided for in section 67-213(c).
- (e) *Amount of mobility fee credit.* The amount of fee payer contribution credit to be applied to the mobility fee shall be determined according to the following standards of valuation:

 - (1) The appraised fair market land value of the contributed parcel as of the date of building permit, agreement to contribute, or contribution, whichever is earlier. No credit shall be granted pursuant to this section unless the cost of the improvements or dedication of land were paid for and the contributions made within the last three years; and
 - (2) The cost of multimodal projects shall be based upon documentation certified by a professional engineer or planner, and such documentation shall be reviewed and approved by the Town Engineer. The town reserves the right to require the fee payer to competitively bid in accordance with the Town Code, in which case the credit shall be limited to the actual cost or 100% of the lowest responsible bid amount, whichever is less. All bidders shall be pre-qualified to construct the multimodal projects.
- (f) *Transfer of mobility fee credit.* Credit for contributions, payments, construction, or dedications of a mobility fee shall not be transferable to another property where a mobility fee is imposed, unless provided for in a mobility fee agreement. Credits shall first be used for the full development potential of the land development activity for which a development order was approved before any excess credit can be considered for transfer to another property.

Sec. 67-214. Mobility fee benefit district.

- (a) Intent. The town shall establish one or more a mobility fee benefit districts to ensure that the mobility fees paid by the fee payer are expended within a defined area that benefits the development paying the mobility fee.
- (b) Expenditure. The established mobility fee benefit district shall ensure that funds paid by the fee payer are expended on multimodal projects to accommodate person travel demand within that benefit district.
- (c) Establishment. The mobility fee benefit district is hereby established as within the following boundaries: Northlake Boulevard or the town limits shall form the northern boundary, US Highway 1 or the Intercoastal Waterway shall form the eastern boundary, Silver Beach Road or the town limits to the south, and C-17 Canal or town limits to the west.

(Ord. No. XX-2022)

Sec. 67-215. Mobility fee fund account.

There is hereby established a mobility fee fund account for the mobility fee benefit district. For accounting purposes, mobility fees shall be considered special revenue funds. Mobility fees collected from the fee payer located within the mobility fee benefit district shall be deposited into the corresponding mobility fee account. Funds withdrawn from these accounts shall be used solely in accordance with the provision of sections 67-214 and 67-216. The mobility fee account shall be subject to the town's annual audit and the reporting requirements of F.S. § 163.3180.

(Ord. No. XX-2022)

Sec. 67-216. Mobility fee expenditures.

- (a) Expenditure of funds. Amounts on deposit in the mobility fee account shall be used by the town solely for developing multimodal projects or for financing directly, or as a pledge against bonds, revenue certificates and other obligations of indebtedness, the costs of multimodal projects, or portions thereof, that are located in the mobility fee benefit district from which the funds were collected and are included in the town's Capital Improvement Element or through a development order or permit condition, or where the Town Commission takes action to adds a multimodal project to the Capital Improvements Element .
- (b) Prohibition. The amounts on deposit in the mobility fee account shall not be used for an expenditure that would be classified as operational and/or for maintenance expenses.
- (c) Use of funds. Funds withdrawn from the mobility fee account shall be used solely in accordance with the provisions of this article. The disbursal of such funds shall be in accordance with the Capital Improvement Element.
- (d) Interest bearing accounts. Any mobility fees collected and deposited into the mobility fee account that are not immediately necessary for expenditure in accordance with the Capital Improvement Element may be invested in interest-bearing accounts. Mobility fees collected by the town may be pooled for investment provided all income derived from the mobility fees

invested in the pooled investment instrument shall be deposited in the established mobility fee account.

(Ord. No. XX-2022)

Sec. 67-217. Mobility fee refunds.

- (a) Refund required. Mobility fees collected pursuant to section 67-210(b) shall be returned to the owner of the benefited property if the fees have not been encumbered or spent by the end of the calendar quarter immediately following seven years from the date the fees were collected, or if the development from which the mobility fees were collected did not initiate development.
- (b) Refund process. For purposes of section 67-216, mobility fees collected shall be deemed to be encumbered or expended on a "first in-first out" basis (i.e., the first money placed in a fee fund shall be deemed to be the first money expended or encumbered). The following procedure shall apply for requests for eligible refunds:
- (1) The then benefited property owner shall petition the town for a refund within one year following the end of the calendar quarter immediately following seven years from the date on which the town collected the fee.
 - (2) The petition must be submitted to the Mobility Fee Administrator and shall contain:
 - a. A notarized sworn statement that the petitioner is the benefitted property owner or its authorized agent; and
 - b. A copy of the dated receipt issued for payment of the fee or other competent evidence of payment; and
 - c. A certificate of title or attorney's title opinion showing the petitioner to be the benefitted property owner or his authorized agent; and
 - d. A copy of the most recent ad valorem tax bill; and
 - e. A copy of the building permit mobility fee agreement, or development order pursuant to which the mobility fees were paid.
 - (3) Within 60 working days from the date of receipt of petition for refund, the Mobility Fee Administrator shall advise the petitioner of the status of the requested refund. For the purposes of determining whether fees have been spent or encumbered, the first money placed in a trust fund account shall be deemed to be the first money taken out of that account when withdrawals have been made in accordance with section 67-216.
 - (4) If the mobility fee for which a benefited property owner is seeking a refund remains in the mobility fee account and has not been spent or encumbered by the end of the calendar quarter immediately following seven years from the date of the mobility fee was paid to the town, the fees paid shall be returned to the petitioner with interest at the rate of one percent per annum.
 - (5) When a refund is requested because development was not initiated the petitioner for the return of a paid mobility, the petitioner shall provide the town with its written acknowledgment of the expiration of the development order before the fee is refunded fee.

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- (6) A request for a refund of mobility fees must be made one year from the issuance of the building permit or use by exception or six months from the expiration of the permit whichever is later only if [no development] activity has started. The refund amount will be less ten (10) percent of the fees that were ultimately to have been paid, regardless of the amount actually paid, to cover administrative cost. If the fee payer does not apply within the time limits stated above, there will be no refund.
- (c) Prepayment refund process. For any fee payer that prepays its mobility fee, the fee payer may make a written request a refund for any prepayment of a mobility fee. The request shall include documentation of the [amount paid and the amount being assessed at the building permit application]. The written request shall be made prior to issuance of a building permit.
- (1) Within 20 working days of receipt of a written request for prepayment, the mobility fee administrator, shall determine if the request is complete. If the mobility fee administrator determines that the request is not complete, a written statement specifying the deficiencies shall be sent to the fee payer. The application shall be deemed complete if no deficiencies are specified. The mobility fee administrator shall take no further action on the request until it is deemed complete.
- (2) When the mobility fee administrator determines the request is complete, the request shall be reviewed and a written decision shall be rendered in 30 working days on whether and the amount of the mobility fee to be refunded.
- (3) If the Mobility Fee Administrator finds that a refund should be provided, it shall be paid within 30 working days of the written determination.

(Ord. No. XX-2022)

Sec. 67-218. Effect on land use and development regulations.

- (a) Land use. The listing of a use in the mobility fee schedule is solely for purposes of establishing the applicable mobility fee for such use, and such listing does not mean that the use is a permitted use established by the town's Zoning Code. In addition, the listing of the use in the mobility fee schedule shall not be considered evidence that the use is appropriate in any existing or future land use classification pursuant to the town's Comprehensive Plan.
- (b) Land development code. The payment of mobility fees does not ensure nor grant compliance with the Town's land development code, including regulations relating to site access, corridor access management, substandard roads, secondary access, timing and phasing, or mobility impact or site impact review. However, if such regulations require transportation mitigation for the same travel demand impacts addressed through the payment of mobility fees, such regulations shall be deemed to provide for mobility fee credit against imposed mobility fees consistent with federal and state laws and this article.

(Ord. No. XX-2022)

Sec. 67-219. Annual report.

The Town shall submit with its annual financial report to the state, as required by Florida Statute a separate affidavit signed by the Town Manager, to the best of his or her knowledge, that

all mobility fees were collected and expended by the Town, or were collected or expended on its behalf, in full compliance with the spending period provision herein, and that funds expended from each mobility fee account were used only to acquire, construct, or improve specific mobility needs.

(Ord. No. XX-2022)

Sec. 67-220. Review and update.

- (a) *Mobility plan and fee update.* The Mobility Plan and Mobility Fee shall be updated by the Town at least once every four years [with no more than five (5) years between adoption.] The Mobility Plan and Mobility Fee shall be reviewed annually as part of the town commission's capital improvements budget process or the preparation of the mobility fee annual report.
- (b) *Annual inflation adjustment.* To ensure that mobility fees keep pace with inflation, on January 1 of each calendar year, and effective October 1, 2024, the mobility fees in section 67-210(b) shall increase by the projected rate of inflation for the upcoming calendar year as determined by the most recent FDOT Transportation Cost Report Construction Cost Inflation Factors released on or about July of each calendar year. Should FDOT cease to report, then annual inflation factor adjustments shall be based on either the National Producers Price Index for transportation projects or the Consumer Price Index.
- (c) *Annual update.* The town shall update the mobility fees in section 67-210(b) on or before September 30th of each calendar year, starting in 2023, with an effective date of January 1, of each calendar year, starting in 2024. The town shall advertise the fees in a publication of general circulation available to town residents and businesses or as permitted by state statute, on the town's website. The advertisement shall be published and/or posted 90 calendar days prior to the effective date of the increase in the mobility fees. Should the Town not be able to update and publish the fees by September 30, then the effective date shall be a minimum of ninety (90) calendar days from the date of update and publication of the update.
- (d) *Notice provided.* The requirements of sections 67-220(b) and (c) shall serve as the statutorily required notice to the public that mobility fees will increase on an annual basis, adjusted for inflation, and that section 67-220 shall be deemed to address statutory requirements that notice be provided 90 calendar days prior to an increase in a mobility fee. The notice requirement of section 67-220(c) is provided as a courtesy reminder only.
- (e) *Required notice for increase.* Updates to the Mobility Plan and Mobility Fee that result in an increase in mobility fees shall be required to provide ninety (90) calendar days' notice before the increased fees are assessed on development activity per Florida Statute.

(Ord. No. XX-2022)

Sec. 67-221. Mobility fee agreements.

A fee payer may enter into a mobility fee agreement with the town to establish mobility fees or to provide equivalent multimodal projects necessary to serve new development. All mobility fee agreements shall be presented to and must be approved by the Town Commission prior to the issuance of a building permit. Any such agreement shall provide for execution by any mortgagees, lienholders, or contract purchasers in addition to the landowner, and shall require the fee payer to record such agreement in the public records of Palm Beach County. The Town Commission shall approve such an agreement only if it finds that the new agreement will apportion the burden of expenditure for new facilities in a just and equitable manner.

(Ord. No. XX-2022)

Sec. 67-222. Appeal.

A fee payer may appeal any decisions related to assessments, credits, determinations, or refunds made by the mobility fee administrator, by filing a written appeal of the mobility fee administrator's written decision to the Town manager. The Town manager shall meet with the fee payer and the mobility fee administrator within 60 calendar days of receipt of the notice to consider the decision of the mobility fee administrator. The Town manager shall render a decision within 60 calendar days of the meeting. A fee payer may appeal the Town Manager's decision to the Town Commission by filing a notice of appeal with the Town. The Town Commission shall consider the appeal within 30 days of the receipt of an appeal of the Town Manager's determination. The appeal shall be based upon the information presented to the Town Manager and no new information or evidence is permitted. The Town Commission's final written decision may be appealed within 30 days of its rendition.

(Ord. No. XX-2022)

Secs. 67-223—67-299. Reserved.

Section 3. Severability. If any section, paragraph, sentence, clause, phrase, or word of this ordinance is for any reason held by a court to be unconstitutional, inoperative or void, such holding shall not affect the remainder of this ordinance.

Section 4. Codification. The provision of this ordinance shall become and be made a part of the Code of Ordinances for the Town of Lake Park. The sections of the ordinance may be re-numbered or re-lettered to accomplish such.

Section 5. Effective date. This ordinance shall take effect immediately upon execution.

By: _____
_____, Mayor

ATTEST:

Vivian Mendez Town Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

Thomas J. Baird, Town Attorney