Mobility Fees - Land Development Regulations

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING SUBPART B OF THE LAND DEVELOPMENT REGULATIONS BY AMENDING CHAPTER 118, ENTITLED "ADMINISTRATION AND REVIEW PROCEDURES," ARTICLE VI, ENTITLED "DESIGN REVIEW PROCEDURES," AT SECTION 118-253, ENTITLED "APPLICATION FOR DESIGN REVIEW," AND CHAPTER 118, ENTITLED "ADMINISTRATION AND REVIEW PROCEDURES," ARTICLE X, ENTITLED "HISTORIC PRESERVATION," DIVISION 3, ENTITLED "ISSUANCE OF CERTIFICATE OF APPROPRIATENESS/CERTIFICATE TO DIG/CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION," AT SECTION 118-562, ENTITLED "APPLICATION," TO MODIFY REQUIREMENTS FOR TRAFFIC STUDIES CONSISTENT WITH REVISED CONCURRENCY STANDARDS; AMENDING CHAPTER 122, ENTITLED "CONCURRENCY MANAGEMENT," TO BE RENAMED AS "CONCURRENCY MANAGEMENT AND MOBILITY FEES"; DELETING, AMENDING, AND RESTATING PROVISIONS IN SECTIONS 122-1 THROUGH 122-10; CREATING ARTICLE I, ENTITLED "PURPOSE AND GENERAL PROVISIONS," SECTION 122-1, ENTITLED "PURPOSE," TO STATE THE PURPOSE FOR CONCURRENCY AND MOBILITY FEES; SECTION 122-2, ENTITLED "DEFINITIONS," TO ESTABLISH DEFINITIONS RELATED TO CONCURRENCY MANAGEMENT AND MOBILITY FEES; SECTION 122-3, ENTITLED "CONCURRENCY MITIGATION AND MOBILITY FEE REQUIRED," TO ESTABLISH REQUIREMENTS FOR CONCURRENCY REVIEW AND CALCULATION AND PAYMENT OF MOBILITY FEES; SECTION 122-4, ENTITLED "CONCURRENCY MITIGATION AND MOBILITY FEE REVIEW," TO ESTABLISH DEPARTMENTAL AND AGENCY RESPONSIBILITY FOR REVIEW OF SPECIFIC CONCURRENCY AND MOBILITY FEE REQUIREMENTS; SECTION 122-5, ENTITLED "EXEMPTIONS FROM CONCURRENCY MITIGATION AND MOBILITY FEES," TO PROVIDE EXEMPTIONS FROM CONCURRENCY REVIEW AND MOBILITY FEE PAYMENT TO INCENTIVIZE DEVELOPMENT UNDER CERTAIN SPECIFIED CONDITIONS; SECTION 122-6, ENTITLED "APPLICATION FOR CONCURRENCY MITIGATION REVIEW AND MOBILITY FEES," TO ESTABLISH PROCEDURES FOR DETERMINING CONCURRENCY MITIGATION AND MOBILITY FEES; AND SECTION 122-7, ENTITLED "ENFORCEMENT AND PENALTIES," TO ESTABLISH ENFORCEMENT PROCEDURES AND PENALTIES; ESTABLISHING ARTICLE II, ENTITLED "CONCURRENCY," SECTION 122-11, ENTITLED "LEVEL OF SERVICE STANDARDS," TO ESTABLISH LEVELS OF SERVICE FOR INFRASTRUCTURE CONSISTENT WITH THE COMPREHENSIVE PLAN; AND SECTION 122-12, ENTITLED "DETERMINATION OF CONCURRENCY," TO ESTABLISH PROCEDURES FOR THE CALCULATION OF CONCURRENCY REQUIREMENTS AND CAPACITY CREDITS; ESTABLISHING ARTICLE III, ENTITLED "MOBILITY FEES," SECTION 122-21, ENTITLED "LEGISLATIVE INTENT," TO PROVIDE THE LEGISLATIVE AUTHORITY FOR, AND INTENT OF, THE MOBILITY FEE PROGRAM; SECTION 122-22, "ADOPTION OF

MOBILITY FEE STUDY," TO INCORPORATE BY REFERENCE THE CITY OF MIAMI BEACH MOBILITY FEE TECHNICAL ANALYSIS, DATED AUGUST 2018; SECTION 122-23, "IMPOSITION AND COLLECTION OF MOBILITY FEES," TO ESTABLISH REQUIREMENTS FOR THE IMPOSITION AND COLLECTION OF MOBILITY FEE; SECTION 122-24, "CALCULATION OF MOBILITY FEES," TO ESTABLISH MOBILITY FEES AND THE METHODOLOGY FOR THE CALCULATION OF MOBILITY FEES; SECTION 122-25, "ALTERNATIVE INDEPENDENT MOBILITY FEE STUDY," TO CREATE A PROCEDURE FOR THE REVIEW OF ALTERNATIVE INDEPENDENT MOBILITY FEE STUDIES TO DETERMINE THE IMPACT AND MOBILITY FEES FOR LAND USES NOT DEFINED IN THE CODE; SECTION 122-26, ENTITLED "MOBILITY FEE LAND USES," TO ESTABLISH SCHEDULE OF LAND USES FOR THE CALCULATION OF MOBILITY FEES; SECTION 122-27, ENTITLED "MOBILITY FEE BENEFIT DISTRICT," TO DESIGNATE THE ENTIRE CITY AS A MOBILITY FEE BENEFIT DISTRICT; SECTION 122-28, ENTITLED "MOBILITY FEE FUND ESTABLISHED," TO ESTABLISH A MOBILITY FEE FUND; SECTION 122-29, ENTITLED "USE OF MOBILITY FEE FUND," TO SPECIFY PERMITTED USES OF MOBILITY FEE PROCEEDS; AND AMENDING "APPENDIX A – FEE SCHEDULE," TO PROVIDE FOR ADMINISTRATIVE FEES FOR CONCURRENCY AND MOBILITY FEE REVIEW; AND PROVIDING FOR APPLICABILITY, REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII of the Florida Constitution and Chapter 166, Florida Statutes, the City of Miami Beach (the "City") has the home rule authority to adopt a transportation impact assessment program; and

WHEREAS, pursuant to Article VIII of the Florida Constitution and Chapter 166, Florida Statutes, the City also has the authority to adopt ordinances relating to the budgeting and expenditure of City funds; and

WHEREAS, the City has broad home rule powers to adopt ordinances to provide for and operate transportation systems, including roadways, transit facilities, and bicycle/pedestrian facilities within the City; and

WHEREAS, in 1999, the City Commission adopted the City's 1999 Municipal Mobility Plan; and

WHEREAS, on April 12, 2000, the City Commission adopted Resolution 2000-23874 which adopted concurrency mitigation fees (and associated administrative fees) to fund projects in the 1999 Municipal Mobility Plan; and

WHEREAS, Section 163.3180, Florida Statutes, entitled "Concurrency," authorizes local governments to repeal transportation concurrency and encourages them to adopt an alternative mobility funding system, including a mobility fee program; and

WHEREAS, the City worked with consultants to prepare a Mobility Fee Technical Analysis pursuant to Policy 1.5 of the Transportation Element of the Comprehensive Plan; and

WHEREAS, a Mobility Fee Technical Analysis was prepared in August 2018 by Keith & Schnars and NUE Urban Concepts, and provides the rationale for the proposed fees; and

WHEREAS, the proposed mobility fee-based funding system complies with the dual rational nexus test applicable to impact fees; and

WHEREAS, Section 163.3177, Florida Statutes, requires the Comprehensive Plan to contain a capital improvements element which shall, among other things, provide for standards to ensure the availability and adequacy of public facilities, as well as projected revenues to fund the facilities; and

WHEREAS, on April 13, 2016, the City Commission approved Resolution No. 2016-29371, adopting the 2016 Miami Beach Transportation Master Plan; and

WHEREAS, the revenue from the mobility fee created herein will be used to implement projects set forth in the 2016 Miami Beach Transportation Master Plan, which serves as the basis for the fee; and

WHEREAS, the amendments set forth below are necessary to accomplish all of the above objectives.

NOW THEREFORE BE IT ORDAINED BY MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH FLORIDA THAT:

SECTION 1. Chapter 118, entitled "Administration and Review Procedures," Article VI, entitled "Design Review Procedures," at Section 118-253, entitled "Application for design review," is amended as follows:

CHAPTER 118
ADMINISTRATION AND REVIEW PROCEDURES

* * *

ARTICLE VI. - DESIGN REVIEW PROCEDURES

* * *

Sec. 118-253. - Application for design review.

* * *

(d) All applications involving demolition, new building construction, alteration, rehabilitation, renovation, restoration or any other physical modification of any building, structure, improvement, landscape feature, public interior or site in accordance with section 118-252 of the Miami Beach Code shall be on a form provided by the planning department and shall include such information and attached exhibits as the board and the planning department determine are needed to allow for complete evaluation of the proposed demolition, construction and other physical improvements, alterations or modifications including, but not limited to, the following:

* * *

(9) ~~Provided certain minimum criteria as to gross square footage or floor area are triggered as delineated under subsection a., below.~~ Commercial and mixed-use developments over 5,000 gross square feet and multi-family projects with more than four (4) units or 15,000 gross square feet shall submit a transportation analysis and mitigation plan, prepared by a professional traffic engineer, licensed and registered in the State of Florida. The analysis and plan shall at a minimum provide the following:

A. Details on the impact of projected traffic on the adjacent corridors, intersections, and areas to be determined by the City.

B. Strategies to mitigate the impact of the proposed development on the adjacent transportation network, to the maximum extent feasible, in a manner consistent with the adopted Transportation Master Plan and adopted mode share goals.

C. Whenever possible, driveways shall be minimized and use common access points to reduce potential turn movements and conflict points with pedestrians.

D. Applicable treatments may include, without limitation, transportation demand management strategies included in the Transportation Element of the Comprehensive Plan.

~~A traffic circulation analysis and plan, prepared by a professional traffic engineer, licensed and registered in the State of Florida, which details the impact of projected traffic on the immediate neighborhood and how this impact is to be mitigated, shall be required in the following instances:~~

~~a. Within the City's Transportation Concurrency Management Areas (TCMA's), as amended from time to time, all new development projects exceeding 5,000 gross square feet.~~

~~b.~~ For ~~development projects~~ that propose ~~new floor area or~~ an increase in floor area~~, and are located within a half mile of any roadway segment with a level of service E or F, as defined by the Transportation Research Board's Highway Capacity Manual, as amended from time to time~~.

~~c. The following shall be excluded from performing a transportation study and mitigation plan to:~~

~~1. Single-family homes; and~~

~~2. Multi-family projects (exclusive of mixed-use projects) with less than five units or 15,000 gross square feet.~~

SECTION 2. Chapter 118, entitled "Administration and Review Procedures," Article X, entitled "Historic Preservation," Division 3, entitled "Issuance of Certificate of Appropriateness/Certificate to Dig/Certificate of Appropriateness for Demolition," at Section 118-562, entitled "Application," is amended as follows:

ARTICLE X. - HISTORIC PRESERVATION

* * *

DIVISION 3. - ISSUANCE OF CERTIFICATE OF APPROPRIATENESS / CERTIFICATE TO DIG / CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION

* * *

Sec. 118-562. - Application.

* * *

(b) All applications involving demolition, new building construction, alteration, rehabilitation, renovation, restoration or any other physical modification of any building, structure, improvement, landscape feature, public interior or site individually designated in accordance with sections 118-591, 118-592 and 118-593, or located within an historic district shall be on a form provided by the planning department and shall include such information and attached exhibits as the board and the planning department determine are needed to allow for complete evaluation of the proposed demolition, construction and other physical improvements, alterations or modifications including, but not limited to, the following:

* * *

(9) ~~A traffic transportation study and mitigation plan, which shall include strategies to mitigate traffic generated by the development, and shall encourage the use of alternative modes of transportation, in accordance with the following:~~ Commercial and mixed-use developments over 5,000 gross square feet and multi-family projects with more than four (4) units or 15,000 gross square feet shall submit a transportation analysis and mitigation plan, prepared by a professional traffic engineer, licensed and registered in the State of Florida. The analysis and plan shall at a minimum provide the following:

A. Details on the impact of projected traffic on the adjacent corridors, intersections, and areas to be determined by the City.

B. Strategies to mitigate the impact of the proposed development on the adjacent transportation network, to the maximum extent feasible, in a manner consistent with the adopted Transportation Master Plan and adopted mode share goals.

C. Whenever possible, driveways shall be minimized and use common access points to reduce potential turn movements and conflict points with pedestrians.

D. Applicable treatments may include, without limitation, transportation demand management strategies included in the Transportation Element of the Comprehensive Plan.

~~A traffic circulation analysis and plan, prepared by a professional traffic engineer, licensed and registered in the State of Florida, which details the impact of projected traffic on the immediate neighborhood and how this impact is to be mitigated, shall be required in the following instances:~~

~~a. Within the City's Transportation Concurrency Management Areas (TCMA's), as amended from time to time, all new development projects exceeding 5,000 gross square feet.~~

b. For development projects that propose new floor area or an increase in floor area, and are located within a half mile of any roadway segment with a level of service E or F, as defined by the Transportation Research Board's Highway Capacity Manual, as amended from time to time.

c. The following shall be excluded from performing a transportation study and mitigation plan to:

1. Single-family homes; and

2. Multi-family projects (exclusive of mixed-use projects) with less than five units or 15,000 gross square feet.

SECTION 3. Chapter 122, entitled "Concurrency Management," is amended as follows:

CHAPTER 122
CONCURRENCY MANAGEMENT AND MOBILITY FEES

Sec. 122-1. - Purpose.

The purpose of this chapter is to ensure that all development which increases the demand for public facilities in the city will be served by adequate public facilities in accordance with the levels of service which are established in the capital improvements element of the comprehensive plan of the city and the city's municipal mobility plan.

Sec. 122-2. - Definitions.

As used in this chapter:

Aggrieved person means an applicant, a person who resides or owns property within 375 feet of property that is the subject of a preliminary concurrency determination, or any person who will suffer an adverse effect to an interest protected or furthered by the city's concurrency management system. The alleged adverse interest may be shared in common with other members of the community at large, but shall exceed in degree the general interest in community good shared by all persons.

Available capacity means public facility capacity less capacity used by existing development, final reservations of capacity made in connection with the payment of applicable fees and issuance of certificates of occupancy and short-term reservations of capacity made in connection with the issuance of approved development orders.

Capacity credit means a credit for certain existing or demolished improvements toward concurrency requirements for future development.

Concurrency management system manual means the technical administrative manual, adopted by reference in this chapter, which sets forth the details of administrative procedures and methodology for determinations of concurrency.

Densities and intensities of development means a numerical measurement of the size and scope of a proposed development based on the following units of measurement:

(1) *Nonresidential developments:* The number of square feet of gross floor area;

(2) *Residential developments:* The number of residents, and/or number of dwelling units;

(3) *Hospitals and clinics:* The number of beds, and/or number of employees, patients, and visitors;

(4) *Educational facilities:* The number of students, administrative and staff personnel, and visitors;

(5) *Hotels and motels:* The number of rooms and employees; and

(6) *Service stations:* The number of gasoline dispensing pumps and size of mini-mart.

Development order means, for the purposes of this chapter, any order, unless otherwise exempt from the provisions of this chapter, granting, denying or granting with conditions an application for zoning approval, division of lots, rezoning, conditional use, variance, certificate of use, occupational license, design approval, or any other official action having the effect of permitting the development of land which exceeds the intensity of development which exists on the property at the time of application.

Final concurrency reservation certificate means a written determination in accordance with section 122-8 that all required public facilities are available to serve a particular proposed development at a particular location at an adopted level of service.

Final development order means any permit or final approval authorizing construction of a new building, additional floor area, an increase in the number of dwelling units contained in an existing building, or modifications to an existing building or site to accommodate a change in the use for which a new certificate of use and occupancy will be required.

Mitigation program means an undertaking to provide, or cause to be provided, required public improvements, which undertaking is legally enforceable by the city and which ensures that needed public improvements will be timely constructed or that the adverse impacts of a diminution in level of service are substantially mitigated.

Preliminary concurrency determination means a determination by the concurrency management division of the city in accordance with section 22-7 that, upon issuance of a final concurrency reservation certificate, all required public facilities will be available to serve a particular proposed development at a particular location at adopted levels of service.

Public facilities means the facilities for which the city has adopted levels of service, including roads, transit, potable water, sanitary sewer, solid waste, flood protection, stormwater management and parks and recreational facilities.

TAZ means one or more geographic areas or zones within a TCMA defined by land use and other geographic variables for the purpose of analyzing the impact of a proposed development on the city's transportation system.

TCMA means a specific geographic area designated in the city's comprehensive plan in accordance with Florida law as a transportation concurrency management area where an area wide level of service (LOS) standard is applied.

Sec. 122-3. - Concurrency inquiry statement.

Any person may file an application for a concurrency inquiry statement prior to filing an application for a development order or at any other time in order to obtain information on the availability of public facilities for a parcel of land.

Sec. 122-4. - Concurrency required.

Unless exempt under the provisions of section 122-5 hereof:

(1) No development order shall be granted unless the applicant for development approval is the holder of a valid preliminary concurrency determination;

(2) No building permit shall be granted unless the applicant is the holder of a final concurrency reservation certificate; and

(3) No final concurrency reservation certificate shall be granted unless the applicant is the holder of a final development order and has paid applicable mitigation fees in accordance with this Code.

Sec. 122-5. - Exemptions from concurrency.

The following types of development are not required to obtain a preliminary concurrency determination or a final concurrency reservation certificate:

(1) Any development undertaken by the city that does not require a rezoning, does not increase in intensity, does not have an associated change of use or that increases the city's ability to provide essential services and facilities related to health and safety concerns (fire, police, etc.).

(2) An application requesting modification(s) of a previously approved development order where the concurrency management division has determined that the impacts on the prescribed levels of service imposed by the requested modification(s) will be no greater than the impacts imposed by the previously approved development order or the previously existing use.

(3) An application for the renovation of an historic structure, provided that the use of the historic structure is not intensified.

(4) An application to develop a parcel of land for single family purposes if no change in the zoning map is required to accommodate the development.

(5) An application for addition, renovation or reconstruction of a residential dwelling that does not increase the number of dwelling units existing or approved for the property.

(6) An application for the construction of, an addition to or renovation of a guest house, garage apartment or other similar accessory units on parcels zoned to permit such uses.

(7) An application for a development order for property which is subject to a valid development order approved as a development of regional impact prior to January 1, 2000, pursuant to F.S. ch. 380.

(8) A valid, unexpired final development order approved prior to the adoption of this chapter.

(9) Temporary uses in public rights-of-way, as determined by the city commission by resolution, specifying geographic areas, criteria, and duration of exemption, where such uses front on or are north of 63rd Street, on Washington Avenue from 6th Street to Lincoln Road, or in the Collins Park Arts District Overlay as defined in section 142-854.

(10) Uses at the North Shore Bandshell, the Ronald W. Shane Watersports Center, and the Miami Beach Botanical Garden, as determined by the city commission by resolution.

(11) Uses located on lots with a GU zoning designation fronting on Collins Avenue between 79th Street and 87th Street, as determined by the city commission, by resolution.

Sec. 122-6. - Level of service standards.

(a) A determination of concurrency shall be based on the levels of service established in the capital improvements element of the comprehensive plan of the city, at the time the proposed development is projected to generate a demand for services. A determination of concurrency shall be conducted in accordance with the methodology described in the city's concurrency management system manual and shall be based on the capacity of available public facilities less applicable capacity credits within the applicable TCMA and TAZ.

(b) For the purposes of a determination of concurrency, potable water, sanitary sewer, solid waste and storm water management facilities shall be deemed available if they are:

(1) In existence at the time of a determination of concurrency;

(2) Funded, programmed and scheduled to be available by the applicable city, state or other governmental agency at the time the proposed development is projected to generate a demand for services; or

(3) The subject of an enforceable mitigation program between the applicant and the city or other applicable governmental agency, approved in accordance with subsection 122-8(d), which will ensure that the facilities will be provided at the time the proposed development is projected to generate a demand for services.

(c) For the purposes of a determination of concurrency, parks and recreational facilities shall be deemed available if they are:

(1) In existence at the time of a determination of concurrency;

(2) Funded, programmed and scheduled to be available by the applicable city, state or other governmental agency at the time the proposed development is projected to generate a demand for services; or

(3) The subject of an enforceable mitigation program between the applicant and the city or other applicable governmental agency, approved in accordance with subsection 122-

8(d), which will ensure that the facilities will be provided at the time the proposed development is projected to generate a demand for services; and

(4) Programmed or otherwise committed to be provided as soon as reasonably possible such that a substandard level of service does not exist for a period of more than one year after the proposed development is projected to generate a demand for services.

(d) For the purposes of a determination of concurrency, roads and transit facilities shall be deemed available if they are:

(1) In existence at the time of a determination of concurrency;

(2) Funded, programmed and scheduled to be available through the applicable city, state or other governmental agency at the time the proposed development is projected to generate a demand for services; or

(3) The subject of an enforceable mitigation program between the applicant and the city or other applicable governmental agency, approved in accordance with subsection 122-8(d), which will ensure that the facilities will be provided at the time the proposed development is projected to generate a demand for services;

(4) Programmed or otherwise committed to be provided as soon as reasonably possible such that a substandard level of service does not exist for a period of more than three years after the proposed development is projected to generate a demand for services; and

(5) Programmed in the capital improvements element of the comprehensive plan for construction in or before year three of the city's adopted budget, Miami-Dade County's Transportation Improvement Program, the Florida Department of Transportation's Five Year Work Program, or the First Year Priority of the Miami-Dade County Long Range Plan.

Sec. 122-7. - Application for preliminary concurrency determination.

(a) An applicant for development approval may apply for a preliminary concurrency determination at any time by filing an application with the concurrency management division.

(b) An application for a preliminary concurrency determination shall include such information as required by the city's concurrency management manual and the following:

(1) Name of applicant;

(2) Location, size, legal description, folio number and existing use of the parcel proposed for development;

(3) A description of the use, density and intensity of use of existing and proposed development, with adequate supporting information and studies;

(4) An estimate of the demand for public facilities needed to serve the existing and proposed development;

(5) Development schedule and public facilities demand schedule;

(6) Description of any proposed on-site or off-site infrastructure improvements;

(7) The date of demolition permit; if applicable; and

(8) A fee sufficient to reimburse the city for the cost of review of the application for a preliminary concurrency determination.

(c) Within ten days after receipt of an application for a preliminary concurrency determination, the concurrency management division shall determine whether the application is complete. If the application is determined to be incomplete, the concurrency management division shall notify the applicant in writing that the application is incomplete and shall identify the additional information required to be submitted. If any application is determined to be incomplete, the concurrency management division shall take no further action in regard to the application until the required additional information has been received and the application is determined to be complete.

(d) Complete applications for preliminary concurrency determinations shall be placed in order of receipt. This placement is a "conditional place-in-line record" which reserves the order in which the project will be able to reserve capacity at the time of final development order approval. Receipt of a preliminary concurrency determination does not constitute a reservation of capacity.

Sec. 122-8. - Determination of concurrency.

(a) Within 30 days after a determination of completeness, the concurrency management division shall make a determination in accordance with section 122-6 as to whether required public facilities are or will be available when needed to serve the proposed development and determine the effective period during which such facilities will be available to serve the proposed development according to the development schedule in the application for preliminary concurrency determination.

(b) Capacity credits, in accordance with the methodology established in the city's concurrency management system manual, shall be given for:

(1) Properties that have received a demolition permit one year or less prior to the adoption of this chapter, provided that a certificate of occupancy is granted within one year of the date of issuance of the demolition credit; and

(2) Properties with existing improvements that are proposed to be renovated or demolished.

(c) Within five days after a determination of concurrency, the concurrency management division shall notify the applicant of the determination.

(d) In the event the determination is made that the required public facilities will not be available where needed to serve the proposed development within the applicable TAZ or the TCMA, an applicant for a preliminary concurrency determination may propose a mitigation program in order to avoid a negative determination of concurrency. The proposed mitigation program shall be based on the same methodology for determining concurrency, and the city municipal mobility plan, and shall include a specific delineation of responsibilities for providing the required public facilities improvements, adequate methods for securing performance of the mitigation program, payment of mitigation monies and a proposed recapture program for the provision of excess capacity, if applicable. Such mitigation program shall be reviewed and approved by the concurrency management division, other appropriate departments of the city and other agencies having jurisdiction. The applicant shall enter into a mitigation agreement, committing to the mitigation program, with the concurrency management division, which is hereby authorized to enter into such an agreement on behalf of the city, subject to the

approval of the city attorney's office. The concurrency management division may grant up to 30 percent mitigation credit to individual projects with approved historic designation undergoing major rehabilitation. No credit will be granted to projects that have already been rehabilitated and are intensifying their existing land usage. The city commission may adopt by resolution programs and policies allowing for transportation concurrency exemptions, a sliding scale, and/or credits for small businesses operating within existing structures, which have been determined to have a minor impact to the existing roadway LOS.

(e) If the concurrency management division determines that the required public facilities are or will be available to serve the proposed development as provided in section 22-6, the concurrency management division shall issue a preliminary concurrency determination impact certificate which shall be effective for a period of one year from the date of the issuance of the determination, unless otherwise specified on the face of the preliminary concurrency determination. An extension of this one year period may be granted by the concurrency management division for an additional six months provided that an application for development approval is being diligently pursued through the city's development review process and provided that an extension is requested within the original one year period. In the event the issuance of a preliminary concurrency determination is based on an approved mitigation program, such certificate shall be expressly conditioned upon compliance with such program.

(f) In the event a preliminary concurrency determination impact certificate is issued, upon issuance of the final development order for which the preliminary concurrency determination is based, and upon payment of applicable mitigation fees as provided for in this Code, a final reservation certificate shall be issued and the available capacity for the respective TCMA and TAZ for the applicable public facilities will be reduced by the projected demand for the project until the reservation of the capacity expires or becomes permanent. Upon issuance of a certificate of occupancy for the project, the reservation of the capacity of the applicable public facilities becomes permanent.

(g) A final concurrency reservation certificate will expire within one year of issuance unless a building permit is obtained. This one year period is a reservation of capacity which can be extended once for an additional year for good cause shown, provided that an application to the concurrency management division for an extension is made within the original one year period.

(h) If the concurrency management division determines that the required public facilities are not and will not be available to serve the proposed development and that an acceptable mitigation program has not been provided, the concurrency management division shall issue a notice of negative determination of concurrency and identify service areas experiencing deficiency, and the improvements necessary to allow the issuance of a preliminary concurrency determination. If a notice of negative determination is rendered, no further review of the development order shall be conducted until an appeal is resolved in favor of the applicant or a new or modified application of a preliminary concurrency determination is filed and a determination of concurrency is made.

Sec. 122-9. - Concurrency appeal committee.

(a) A concurrency appeal committee is hereby established to hear and decide appeals from preliminary concurrency determinations and negative determinations of concurrency.

(b) There shall be five members of the concurrency appeal committee: the director of planning, the director of public works, the director of parks and recreation, an assistant city manager designated by the city manager, and a member appointed from the city's transportation and parking committee.

(c) Meetings of the concurrency appeal committee shall be held as needed to hear any appeals under the provisions of section 122-10.

(d) The burden of showing compliance with the city's concurrency level of service requirements shall be upon the applicant. Applications for development approval shall provide sufficient information showing compliance with level of service standards.

Sec. 122-10. - Appeal of preliminary or negative determinations of concurrency.

(a) An aggrieved person may appeal a preliminary or negative determination of concurrency to the concurrency appeal committee by filing a notice of appeal with the committee within ten days of the determination of concurrency.

(b) A notice of appeal shall be accompanied by:

(1) A detailed statement of the grounds for appeal, demonstrating how the determination appealed from is not supported by substantial competent evidence or departs from the essential requirements of law; and

(2) Any supporting documentation.

Notices not accompanied by the above shall not be processed for review. Notices that do not include a statement showing a prima facie basis for relief, or are clearly advanced for frivolous purposes, may be dismissed by the concurrency appeals committee before the public meeting, which dismissal decision is subject to appeal as provided below.

(c) The appeal shall be considered and decided within 45 days of the filing of a notice of appeal. The appeal shall be on the record considered by the concurrency management division; however, the applicant or other aggrieved person may submit additional evidence not previously considered by the concurrency management division.

(d) The concurrency appeal committee shall publish notice of its meeting at least seven days prior to the public meeting on the appeal in a local newspaper of general circulation.

(e) Upon conclusion of the public meeting, the concurrency appeal committee shall grant the appeal, grant the appeal subject to conditions or deny the appeal. The committee shall grant the appeal if the concurrency appeal committee determines that the determination by concurrency management division is not supported by competent substantial evidence or departs from the essential requirements of law. If the appeal is granted, the concurrency appeal committee shall direct the concurrency management division to make a determination of concurrency and issue a preliminary concurrency determination consistent with the concurrency appeal committee's determination.

(f) The decision of the concurrency appeal committee may be appealed by the applicant or other aggrieved person to the circuit court appellate division by petition for writ of certiorari.

ARTICLE I. - PURPOSE AND GENERAL PROVISIONS

Sec. 122-1. - Purpose.

The purpose of this chapter is to ensure that all development which increases the demand for public facilities in the city will be served by adequate public facilities in accordance with the levels of service which are established in the capital improvements element of the comprehensive plan of the city and the city's municipal mobility plan.

Sec. 122-2. - Definitions.

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

~~*Aggrieved person* means an applicant, a person who resides or owns property within 375 feet of property that is the subject of an estimate of concurrency mitigation and mobility fees, or any person who will suffer an adverse effect to an interest protected or furthered by the city's concurrency management system or mobility fee program. The alleged adverse interest may be shared in common with other members of the community at large, but shall exceed in degree the general interest in community good shared by all persons.~~

Applicable Review Department means the department or agency that is charged with reviewing a particular level of service for the purposes of concurrency review and mitigation calculation or the calculation and collection of mobility fees.

Available capacity means public facility capacity less capacity used by existing development, final reservations of capacity made in connection with the payment of applicable fees, and issuance of certificates of occupancy and short-term reservations of capacity made in connection with the issuance of approved development orders.

Capacity credit means a credit for certain existing or demolished improvements toward concurrency requirements for future development.

Densities and intensities of development means a numerical measurement of the size and scope of a proposed development based on the following units of measurement:

(1) *Nonresidential developments:* The number of square feet of gross floor area or seats, as applicable;

(2) *Residential developments:* The number of dwelling units, or the number of square feet of floor area, as applicable;

(3) *Hospitals and clinics:* The number of beds, and/or the number of square feet of gross floor area, as applicable;

(4) *Educational facilities:* The number of students, or floor area, as applicable

(5) *Hotels and motels:* The number of rooms; and

(6) *Service stations:* The number of gasoline dispensing pumps and size of mini-mart.

Development order means any order, unless otherwise exempt from the provisions of this chapter, granting, denying, or granting with conditions an application for zoning approval, building permit, division of land/lot split, rezoning, conditional use, design review, certificate of appropriateness, variance, sidewalk café permit, certificate of use, business tax receipt, other design approval, or any other official action having the effect of permitting the development of land which exceeds the density and/or intensity of development which exists on the subject property at the time of application.

Estimate of concurrency mitigation and mobility fee means an estimate of required concurrency mitigation or payment of mobility fees that is required prior to the approval of a development order.

Mitigation program means an undertaking to provide, or cause to be provided, required public improvements, which undertaking is legally enforceable by the city and which ensures that needed public improvements will be timely constructed or that the adverse impacts of a diminution in level of service are substantially mitigated.

Mobility fee means an impact fee on new development and increases in density and/or intensity, based on the calculation of predicted vehicles miles traveled (VMT).

Multimodal transportation means surface transportation system that includes all motorized and non-motorized manners of travel.

Origin and Destination Adjustment Factor means a factor of 0.5. Trip generation rates represent trip-ends at the site of a land use. Thus, a single-origin trip from a residence to a workplace counts as one trip-end for the residence and one trip-end for the workplace, for a total of two trip-ends. To avoid double-counting of trips, the PMT for each land use shall be multiplied by 0.5. This distributes the impact of travel equally between the origin and destination of the trip, and eliminates double charging for trips.

Person Miles of Travel (PMT) means the number of miles traveled by each person on a trip.

Person Miles of Travel rate means the unit cost per additional person-mile of travel used in developing the mobility fee schedule.

Person Trips means a calculation of vehicle trips, as multiplied by an average vehicle occupancy.

Public facilities mean the facilities for which the city has adopted levels of service, including potable water, sanitary sewer, solid waste, flood protection, stormwater management, and parks and recreational facilities.

Trip generation means the maximum number of daily trips generated for an applicable land use type.

Vehicle Miles of Travel (VMT) means the movement of one privately operated vehicle for one mile, regardless of the number of people in the vehicle.

Sec. 122-3. - Concurrency mitigation and mobility fee required.

Concurrency mitigation and mobility fees, if applicable, are required for all projects that increase the density and/or intensity of a site, including a building and/or use on a site. Unless exempt under the provisions of section 122-5 hereof:

(a) No development order ~~permit~~ shall be granted unless the applicant has obtained a valid estimate of concurrency mitigation and mobility fees;

(b) No development order shall be issued unless the applicant has proof of payment for all applicable concurrency mitigation and mobility fees.

Sec. 122-4. - Concurrency mitigation and mobility fee review.

Concurrency mitigation review and mobility fee calculations shall be provided upon filing a request with the Applicable Review Department. Notwithstanding the foregoing, the provisions of this chapter shall not be construed to restrict Applicable Review Departments other than departments of the City of Miami Beach from establishing alternative review procedures. Applicable Review Departments for developments in the City shall include the following:

(a) Potable water - Miami Dade County and Miami Beach Public Works Department, as applicable.

(b) Sanitary sewer – Miami Dade County and Miami Beach Public Works Department, as applicable.

(c) Solid waste – Miami Beach Public Works Department.

(d) Storm water – Miami Beach Public Works Department.

(e) Recreation and open space – Miami Beach Planning Department.

(f) Mobility fees – Miami Beach Planning Department.

(g) Public schools – Miami Dade County Public Schools.

Sec. 122-5. - Exemptions from concurrency mitigation and mobility fees.

The following types of development are not required to undergo concurrency review or pay a mobility fee pursuant to this chapter:

(a) Any development undertaken by the city that does not require a rezoning, does not increase in intensity, does not include an associated change of use, or that increases the city's ability to provide essential services and facilities related to health and safety concerns (fire, police, etc.).

(b) Any application that does not propose to increase intensity and/or density of a site.

(c) Temporary uses in public rights-of-way, as determined by the city commission by resolution, specifying geographic areas, criteria, and duration of exemption, where such uses front on or are north of 63rd Street, on Washington Avenue from 6th Street to Lincoln Road, or in the Collins Park Arts District Overlay (as defined in section 142-854).

(d) Uses at the North Shore Bandshell, the Ronald W. Shane Watersports Center, and the Miami Beach Botanical Garden, as determined by the city commission by resolution.

(e) Uses located on lots with a GU zoning designation fronting on Collins Avenue between 79th Street and 87th Street, as determined by the city commission by resolution.

Sec. 122-6. - Application for concurrency mitigation review and mobility fees.

(a) For those concurrency and mobility requirements for which the Miami Beach Planning Department is the Applicable Review Department, an applicant may file an application for an estimate of concurrency mitigation and mobility fees prior to filing an application for a development order, ~~building permit, certificate of use, or business tax receipt,~~ or at any other time, in order to obtain information on the availability of public facilities for a parcel of land.

(b) An application for an estimate of concurrency mitigation and mobility fees shall include such information as required by the city including, without limitation, the following information:

(1) Name of applicant;

(2) Location, size, legal description, folio number, and existing use of the parcel or portion thereof proposed for development;

(3) A description of the use, density, and intensity of use for existing and proposed development, with adequate supporting information and studies, which may include a building permit application, certificate of occupancy, certificate of use, business tax receipts, or other documentation, as applicable;

(4) Schedule for phased developments;

(5) Description of any proposed on-site or off-site infrastructure improvements;

(6) Any building permit documents that may be required by the Planning Department;

(7) The date of demolition permit, if applicable;

(8) Any other documents which may be requested by the Planning Department; and

(9) An administrative fee, as set forth in Appendix A to this code, to offset the actual costs of the City's review of an application for an estimate of concurrency mitigation and mobility fees.

(c) Within ten days after receipt of an application for concurrency mitigation review and mobility fees, each Applicable Review Department shall determine whether the application

is complete. If the application is determined to be incomplete, the Applicable Review Department shall notify the applicant in writing that the application is incomplete and shall identify the additional information required to be submitted. Until all required information is provided and an application is determined to be complete, an Applicable Review Department shall take no further action in regard to the application.

Sec. 122-7. – Enforcement and penalties.

(a) Any person, firm, corporation, or partnership that violates (or aids in a violation of) any provision of this chapter may be subject to enforcement, as outlined herein.

(b) A violation of this chapter includes, but is not limited to, the failure, neglect, or refusal to pay a mobility fee; provide or perform all obligations pursuant to a concurrency mitigation program; pay a concurrency mitigation fee as required by this chapter; or a failure or refusal to comply with any other provision of this chapter. A violation of this chapter shall also include furnishing untrue, incomplete, false, or misleading information on any document, or to any city employee, concerning (i) the calculation, exemption, or payment of a mobility fee or concurrency mitigation fee; (ii) the entitlement to a refund; or (iii) the proposal, negotiation, terms, or performance of obligations pursuant to a concurrency mitigation program or agreement.

(c) *Penalties and enforcement*.

(1) A violation of this chapter shall be subject to the following civil fines, in addition to any outstanding fees owed pursuant to this chapter:

a. If the violation is the first violation, a person or business shall receive a civil fine of $1,000.00;

b. If the violation is the second violation within the preceding six months, a person or business shall receive a civil fine of $2,000.00;

c. If the violation is the third violation within the preceding six months, a person or business shall receive a civil fine of $3,000.00;

d. If the violation is the fourth or subsequent violation within the preceding six months, a person or business shall receive a civil fine of $4,000.00.

(2) *Enforcement*. The code compliance department shall enforce this section. This shall not preclude other law enforcement agencies from any action to assure compliance with this section and all applicable laws. If a violation of this section is observed, the code enforcement officer will be authorized to issue a notice of violation. The notice shall inform the violator of the nature of the violation, amount of fine for which the violator is liable, instructions and due date for paying the fine, that the violation may be appealed by requesting an administrative hearing before a special master within ten (10) days after service of the notice of violation, and that the failure to appeal the violation within ten (10) days of service shall constitute an admission of the violation and a waiver of the right to a hearing.

(3) *Rights of violators; payment of fine; right to appear; failure to pay civil fine or to appeal; appeals from decisions of the special master*.

a. A violator who has been served with a notice of violation must elect to either:

i. pay the civil fine in the manner indicated on the notice of violation; or

ii. request an administrative hearing before a special master to appeal the notice of violation, which must be requested within ten (10) days of the service of the notice of violation.

b. The procedures for appeal by administrative hearing of the notice of violation shall be as set forth in sections 30-72 and 30-73 of this Code. Applications for hearings must be accompanied by a fee as approved by a resolution of the city commission, which shall be refunded if the named violator prevails in the appeal.

c. If the named violator, after issuance of the notice of violation, fails to pay the civil fine, or fails to timely request an administrative hearing before a special master, the special master may be informed of such failure by report of the code enforcement officer. The failure of the named violator to appeal the decision of the code enforcement officer within the prescribed time period shall constitute a waiver of the violator's right to an administrative hearing before the special master, and shall be treated as an admission of the violation, for which fines and penalties shall be assessed accordingly.

d. A certified copy of an order imposing a fine may be recorded in the public records, and thereafter shall constitute a lien upon any real or personal property owned by the violator, which may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the violator's real or personal property, but shall not be deemed to be a court judgment except for enforcement purposes. On or after the sixty-first (61st) day following the recording of any such lien that remains unpaid, the City may foreclose or otherwise execute upon the lien.

e. Any party aggrieved by a decision of a special master may appeal that decision to a court of competent jurisdiction.

f. The special master shall be prohibited from hearing the merits of the notice of violation or considering the timeliness of a request for an administrative hearing if the violator has failed to request an administrative hearing within ten (10) days of the service of the notice of violation.

g. The special master shall not have discretion to alter the penalties prescribed in subsection (c)(1).

(d) In addition to enforcement of this division through issuance of a violation, the city may withhold issuance of the certificate of occupancy, certificate of use, or change of use approval, and/or bring suit to restrain, enjoin, or otherwise prevent violation of this chapter in any court of competent jurisdiction, to recover costs incurred by the city in whole or in part because of a violation of this chapter, and/or to compel payment of a mobility fee or concurrency mitigation fee pursuant to this chapter. Issuance of and/or payment of a citation for violation of this division does not preclude the city from filing such a suit. Payment of any penalties imposed

does not release a person or entity from payment of the mobility fee due or concurrency mitigation, but shall be payable in addition to the mobility fee or concurrency mitigation.

Secs. 122-8—122-10. - Reserved.

ARTICLE II. - CONCURRENCY

Sec. 122-11. - Level of service standards.

(a) A determination of concurrency for recreation and open space, potable water, sanitary sewer, solid waste, public schools, and storm water management facilities shall be based on the levels of service established in the capital improvements element of the comprehensive plan of the city, at the time the proposed development is projected to generate a demand for services. The City of Miami Beach is designated as a Transportation Concurrency Exception Area (TCEA) and, as such, all development and redevelopment is exempt from a obtaining a determination of transportation concurrency; however, development shall be subject to the payment of a mobility fee, unless otherwise provided in this chapter.

(b) For the purposes of a determination of concurrency, potable water, sanitary sewer, solid waste, and storm water management facilities shall be deemed available if they are:

(1) In existence at the time of a determination of concurrency;

(2) Funded, programmed, and scheduled to be available by the applicable city, state, or other governmental agency at the time the proposed development is projected to generate a demand for services; or

(3) The subject of an enforceable mitigation program between the applicant and the city or other applicable agency, which will ensure that the facilities will be provided at the time the proposed development is projected to generate a demand for services.

(c) For the purposes of a determination of concurrency, recreation and open space facilities shall be deemed available if they are:

(1) In existence at the time of a determination of concurrency.

(2) Funded, programmed, and scheduled to be available by the applicable city, state, or other governmental agency at the time the proposed development is projected to generate a demand for services; or

(3) The subject of an enforceable mitigation program between the applicant and the city or other applicable governmental agency, which will ensure that the facilities will be provided at the time the proposed development is projected to generate a demand for services; or

(4) Programmed or otherwise committed to be provided as soon as reasonably possible such that a substandard level of service does not exist for a period of more than one

(1) year after the proposed development is projected to generate a demand for services; or

(5) A proportionate fair-share concurrency mitigation fee is paid, which will allow the City to build the facilities for which there is a substandard level of service.

Sec. 122-12. - Determination of concurrency.

(a) As part of an application for a development order that increases the density or intensity of a site, as applicable, each Applicable Review Department shall make a determination of concurrency in accordance with section 122-26 as to whether required public facilities are or will be available when needed to serve the proposed development; determine the effective period during which such facilities will be available to serve the proposed development; and issue an invoice for necessary concurrency mitigation fees or identify other mitigation measures.

(b) Capacity credits shall be given for legally established uses as follows:

(1) For existing structures that have an active use, the current use shall be used as the basis for calculating capacity credits.

(2) For vacant structures or structures undergoing construction, the last active use shall be used as the basis for calculating capacity credits.

(3) For vacant land, the last active use shall be used as the basis for calculating capacity credits, provided the activity has not been inactive for more than ten (10) years.

(c) In the event the determination is made that the required public facilities will not be available where needed to serve the proposed development, an applicant for concurrency mitigation may propose a mitigation program in order to avoid a negative determination of concurrency. The proposed mitigation program shall be based on the same methodology utilized by the Applicable Review Department for determining concurrency, and shall include a specific delineation of responsibilities for providing the required public facility improvements, adequate methods for securing performance of the mitigation program, payment of mitigation funds, and a proposed recapture program for the provision of excess capacity, if applicable. Such mitigation program shall be reviewed and, if the program satisfies the concurrency requirements herein, the program shall be approved by the Applicable Review Departments of the city and other agencies having jurisdiction. The applicant shall enter into a mitigation agreement with the city, committing to the mitigation program, which agreement shall be subject to the review and approval of the city attorney.

(d) If the Applicable Review Department determines that the required public facilities are or will be available to serve the proposed development as provided in section 122-11, the Applicable Review Department shall issue a finding of concurrency mitigation which shall be effective for a period of one (1) year from the date of the issuance of the determination, unless otherwise specified in the finding. An extension of this one-year period may be granted by the Applicable Review Department for an additional six (6) months, provided that an application for a city development order is being diligently pursued, and provided that an extension is requested within the original one-year period. In the event the issuance

of a concurrency mitigation certificate is based on an approved mitigation program, such certificate shall be expressly conditioned upon compliance with such program.

(e) A determination of concurrency mitigation will expire within one (1) year of issuance, unless a building permit is obtained or a mitigation fee is paid. This one-year period for a reservation of capacity, may be extended one time for an additional year for good cause shown, provided that an application to the Applicable Review Department for an extension is made within the original one-year period.

(f) If a mitigation fee is paid and the development does not receive a building permit, or the use does not become legally established, a refund can only be requested within one (1) year of the date of payment.

(g) If the Applicable Review Department determines that the required public facilities are not and will not be available to serve the proposed development, and that an acceptable mitigation program has not been provided, the Applicable Review Department shall issue a notice of negative determination of concurrency and identify service areas experiencing deficiency, and the improvements or fair-share concurrency mitigation payment necessary to allow the development to proceed. If a notice of negative determination is rendered, no further review of any associated applications for development order shall be conducted unless or until a new or modified application of an estimate of concurrency mitigation and mobility fees is filed, and a determination of concurrency is made.

(h) Applicable Review Departments other than departments or agencies of the City of Miami Beach may utilize alternative procedures from those identified in this section to determine concurrency.

Secs. 122-13—122-20. - Reserved.

ARTICLE 3. - MOBILITY FEES

Sec. 122-21. - Legislative intent.

The City Commission hereby finds, determines, as declares as follows:

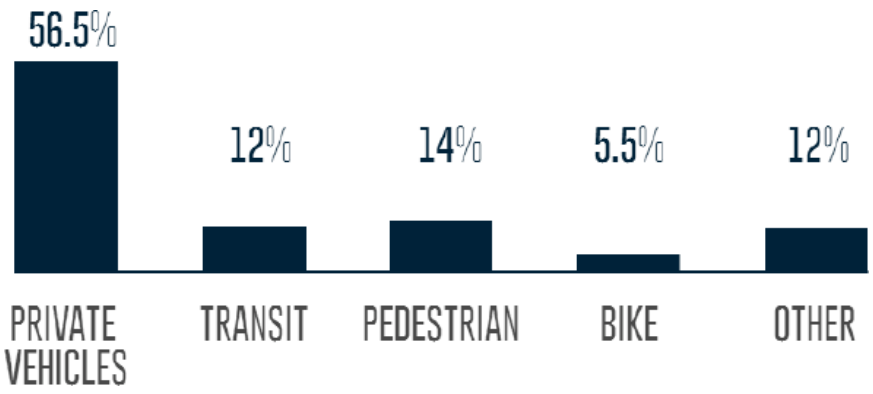
(a) Pursuant to Article VIII of the Florida Constitution and Chapter 166, Florida Statutes, the city has broad home rule powers to adopt ordinances to provide for and operate transportation systems, including roadways, transit facilities, and bicycle/pedestrian facilities within the city.

(b) The Community Planning Act, at Section 163.3180(5)(i), Florida Statutes (as may be amended from time to time), provides for mobility fees, based on an adopted transportation mobility plan, as an alternative means by which local governments may allow development consistent with an adopted Comprehensive Plan to equitably mitigate transportation impact.

(c) Section 163.3180(5)(i), Florida Statutes, requires that a mobility fee must be based upon an adopted transportation mobility plan. The City of Miami Beach has adopted a Transportation Master Plan, identifying a prioritized list of multimodal improvements, which serves as the basis for the mobility fee imposed. The Master Plan provides an analysis of existing traffic

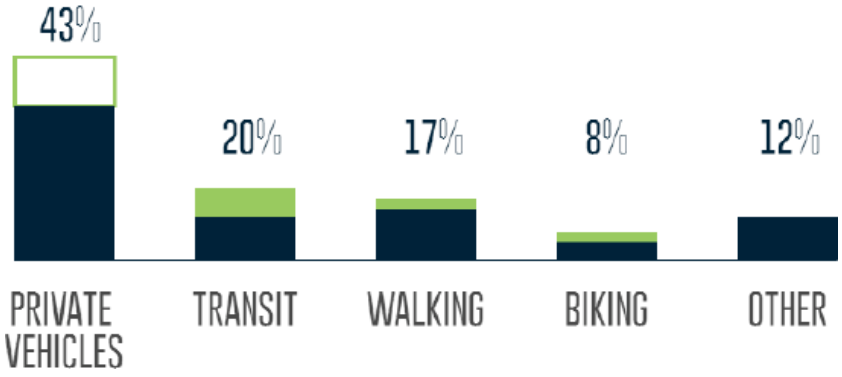
conditions and travel characteristics. The existing citywide mode share is as follows, pursuant to the adopted City of Miami Beach 2016 Transportation Master Plan:

Existing Citywide Mode Share



(d) The City has established a Citywide mode share goal that seeks to reduce travel by motor vehicle and increase the share of travel made by riding transit, walking, and riding a bicycle. The list of multimodal improvements established in the Transportation Master Plan are intended to address future citywide travel demand and achieve the City's 2035 mode share goals, as follows:

2035 Mode Share Vision



(e) The city's mobility fee program, established pursuant to this chapter, shall be effective ninety (90) days following the adoption of this Ordinance. Developments that have obtained a land use board approval, or a building permit process number, prior to the effective date of this Ordinance shall be subject to the concurrency requirements applicable prior to the effective date of the mobility fee program.

Sec. 122-22. - Adoption of mobility fee study.

The City Commission hereby adopts and incorporates the following study by reference hereto:

The mobility fee study, entitled "City of Miami Beach Mobility Fee Technical Analysis," and dated August 2018, including without limitation the assumptions, conclusions, and findings in such study as to the methodology for the calculation of the city's mobility fee and the trip generation rates assigned to various land use categories.

Sec. 122-23. - Imposition and collection of mobility fees.

(a) Mobility fees shall be assessed upon the issuance of a building permit or change of use for any development within the city. Mobility fees shall be calculated in the manner set forth in section 122-26 hereof and the mobility fee study referenced in section 122-22.

(1) Mobility fees assessed in connection with the issuance of a development order shall be collected and paid prior to or concurrent with the issuance of the building permit.

(2) Mobility fees assessed in connection with a change of use shall be collected and paid prior to issuance of the certificate of use, business tax receipt, or other similar approval. The mobility fee shall be computed at the difference between the rate established in the mobility fee schedule for the proposed use and the rate established in the mobility fee schedule for the current use.

(b) Modifications to an existing use and changes of use which do not result in a higher assessment under the mobility fee schedule shall be exempted from payment of the mobility fee.

(c) The city shall also require a site-specific multimodal transportation analysis and mitigation plan pursuant to the applicable land use board application requirements set forth in chapter 118.

Sec. 122-24. - Calculation of mobility fee.

(b) The calculation of the mobility fee requires the adjustment of the Person Miles of Travel (PMT) for each land use by the Origin and Destination Adjustment Factor (ODAF). The ODAF is equal to 0.5. Trip generation rates represent trip-ends at the site of a land use. Thus, a single-origin trip from a residence to a workplace counts as one trip-end for the residence and one trip-end for the workplace, for a total of two trip-ends. To avoid double-counting of trips, the PMT for each land use shall be multiplied by 0.5. This distributes the impact of travel equally between the origin and destination of the trip, and eliminates double charging for trips. The PMT for each land use begins with the entering and exiting daily trips for each land use. The adjusted PMT is then multiplied by the PMT rate of $129.37 to determine the mobility fee rate per each land use on the mobility fee schedule.

The formulas for each step in the calculation of the mobility fee are as follows:

Person Trips (PT) per Land Use	=	**(TG x % NEW) x PMT Factor**
Person Trips (PT) by Mode	=	**PT x MS for each of the five modes of travel**
Person Mile of Travel (PMT) per Land Use	=	**SUM of (PT by Mode * TL by MODE)**
Person Mile of Travel (PMT) Rate	=	**$129.37 per PMT**
Mobility Fee (MF) per Land Use	=	**(PMT * ODAF) * PMT RT**
Where:		
PT	=	**Person Trips**
PMTF	=	**Person Miles of Travel Factor of 1.33 to account for multi-modal travel**
TG	=	**Daily Trip Generation during average weekday**
% NEW	=	**Percent of trips that are primary trips, as opposed to pass-by or diverted-link trips**
MS	=	**Mode Share Goals per Miami Beach Transportation Plan for each of the five modes of travel**
TL	=	**Average length of a trip by Mode and by Trip Purpose**
PMT	=	**Person Miles of Travel**
PMT RT	=	**Person Miles of Travel Rate = $129.37**
ODAF	=	**Origin and Destination Adjustment Factor of .50 to avoid double-counting trips for origin and destination**
MF	=	**Mobility Fee calculated by (PMT x .50) x PMT RT**

(c) The adopted mobility fee for each land use category are set forth in "Schedule A," below:

Schedule A – Mobility Fee

Mobility Fee Schedule Category/Land Use Type	**Unit of Measure**	**Mobility Fee**
Residential		
Single Family **with a unit size** less than 3,500 sq. ft. ~~**of floor area**~~[1]	Per Unit	$1,847
Single Family **with a unit size** between 3,500 and 7,000 sq. ft. ~~**of floor area**~~[1]	Per Unit	$2,461
Single Family **with a unit size** greater than 7,000 sq. ft. ~~**of floor area**~~[1]	Per Unit	$3,076
Multi Family Apartments	Per Unit	$1,515
Affordable ~~/~~ **Housing**	**Per Unit**	**$379**
Workforce ~~/~~ **Housing**	Per Unit	$758

Co-living / Micro Apartments	**Per Unit**	~~**$1,136**~~ **$758**
Recreation & Entertainment		
Marina (Including dry storage)	Per Berth	$308
Golf Course	Per Hole	$3,881
Movie Theater	Per Screen	$22,823
Outdoor Commercial Recreation[2]	Per Acre	$1,829
Community Center / Civic / Gallery / Lodge / Museum	Per Sq. Ft.	$1.86
Indoor Commercial Recreation / Health Club / Fitness	Per Sq. Ft.	$4.54
Institutional		
Continuing Care Facility / Nursing Home / Memory Care / Congregate Care Facility / Assisted / Independent Living	Per Bed	$740
Private School (Pre-K-12)	Per Sq. Ft.	$2.09
Place of Worship, including ancillary & accessory buildings	Per Sq. Ft.	$1.78
Day Care Center	Per Sq. Ft.	$3.87
Industrial		
Warehousing / Manufacturing / Industrial / Production (under roof)	Per Sq. Ft.	$1.53
Mini-Warehousing / Boat / RVs & Other Outdoor Storage[3]	Per Sq. Ft.	$0.46
Distribution / Fulfillment Center / Package Delivery Hub	Per Sq. Ft.	$2.14
Office		
General Office / Research / Higher Education / Financial / Bank	Per Sq. Ft.	$3.33
Medical / Dental / Clinic / Veterinary / Hospital	Per Sq. Ft.	$7.60
Service / Retail / Non-Residential		
Retail Sales / Personal and Business Services[4]	Per Sq. Ft.	$10.11
Pharmacy / Dispensary / Pain Management Clinic	Per Sq. Ft.	$15.40
Supermarket	Per Sq. Ft.	$16.37
Takeout Restaurant with no seating[5]	Per Sq. Ft.	$11.07
Restaurant with seating[5]	Per Seat	$877
Restaurant drive-thru[5]	Per Drive-Thru	$9,110
Bar / Nigh Club / Pub without food service[4]	Per Sq. Ft.	$26.12
Motor Vehicle & Boat Sales / Service / Repair / Cleaning / Parts	Per Sq. Ft.	$6.26
Hotel / Lodging[6]	Per Room	$1,721
Convenience Retail[7]	Per Sq. Ft.	$19.48
Motor Vehicle Fueling	Per Fuel Position	$6,413
Bank Drive-Thru Lane, Stand Alone ATM or ATM Drive-Thru Lane[8]	Per Drive Thru Lane and / or Per ATM	$12,170
Notes:		

[1]Floor area is based on **areas that count towards the maximum unit size pursuant to the single-family district regulations.** ~~**Heated and/or cooled area and areas determined by building official to be habitable.**~~
[2]The sq. ft. for any buildings or structure shall not be excluded from the acreage.
[3]Acreage for any unenclosed material and vehicle storage shall be converted to sq. ft.
[4]Areas under canopy for seating, display, storage and sales shall be converted to sq. ft.
[5]Separate fees are associated with any drive-thru lane(s) associated with a restaurant.
[6]Restaurant / Bar / Night Club and/or Retail Sales, that are not exclusive to hotel guests only, shall be calculated based on the separate applicable Land Use Classification.
[7]Convenience Retail rates are separate from the fee due for vehicle fueling positions. Rates per vehicle fueling position also apply to gas stations and service stations with fuel pumps. The fee for any restaurant square footage, seating or drive-thru in a convenience store will be based on the individual fee rate for the land use, not the convenience store rate.
[8]Bank building square footage falls under office and is an additive fee beyond the fee due for bank/ATM drive-thru lanes or free-standing ATM's. These rates are per drive-thru lane for the bank and per drive-thru lane with an ATM. 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.

NOTE: The list of uses in the mobility fee schedule is subject to compliance with permitted uses in the city's land development regulations.

Mobility fee rate. Except as otherwise provided in this subsection, the mobility fee rates established above in "Schedule A" shall be automatically adjusted in the future by applying the percent increase in "Consumer Price Index For All Urban Consumers (CPI-U), Not Seasonally Adjusted, U.S. city average for all items (1982-84=100)" (To be known as Annual CPI) from the prior year. For reference, the 2018 value is *251.107*. The CPI adjustment shall never be less than 0.0 percent. Adjustments shall take place by September 1 of each year, and shall take effect on October 1 of each year, beginning in 2020. The adjustment calculation is below:

The change shall be calculated as follows:

> ("Annual CPI" for Prior Calendar Year minus "Annual CPI" for Calendar Year Two Years Prior)/(Annual CPI for the Calendar Year Two Years Prior) = "Change in CPI"
>
> then
>
> ("Change in CPI" + 1) * (Fee Currently in Force) = (New Fee for Next Year).
>
> If the "Change in CPI" is less than 0.0, then 0.0 shall replace the actual "Change in CPI" in the calculation for that 12-month period.

Schedule A may be adjusted administratively on an annual basis, pursuant to the formula above.

(d) *Incentive Areas.* In order to incentivize the revitalization of targeted areas, the City Commission hereby designates the area of the city north of 63rd Street, as a mobility fee incentive area. Within the incentive area, a mobility fee reduction of **62.5** ~~**50**~~ percent shall be provided until **August 31, 2022; between September 1, 2022, and** August 31, 2023**, a mobility fee reduction of 50 percent shall be provided**; between September 1, 2023, and August 31, 2024, a mobility fee reduction of 38 percent shall be provided; and between September 1, 2024, and August 31, 2025, a mobility fee reduction of 26 percent shall be provided.

(e) A mobility fee administration fee, in the amount identified in Appendix A, shall be assessed, for the purposes of calculating and processing payment of the mobility fee, as well as to fund future mobility fee and concurrency studies.

Sec. 122-25.- Alternative independent mobility fee study.

(a) Any applicant whose land use is not listed in the mobility fee schedule shall have the option to provide an independent mobility fee study prepared in accordance with the methodology outlined in section 122-24.

(b) The city manager is hereby authorized to reject any independent mobility fee study that does not meet the standards in section 122-24. The applicant shall provide notice of its intent to provide an independent mobility fee study not later than sixty days following issuance of the building permit or approval for a change of use.

Upon submission of the independent mobility fee study, the study shall require a review at the applicant's expense, pursuant to section 118-6. If the independent mobility fee study cannot be completed and a final determination of sufficiency made by the city manager, prior to issuance of the certificate of occupancy for the development, the applicant shall pay the applicable mobility fee pursuant to the provisions of this article prior to obtaining a certificate of occupancy.

However, if the mobility fee study is subsequently accepted by the city manager, following issuance of the certificate of occupancy, a refund shall be made to the applicant to the extent that the mobility fee paid was higher than the mobility fee determined in the independent mobility fee study.

Sec. 122-26. - Mobility fee land uses.

Mobility fee calculations shall be based upon the following schedule of land uses, measured per square foot, unless noted otherwise.

(a) Residential – Per Unit

(1) Single Family **with a unit size** less than 3,500 sq. ft. ~~**of floor area**~~

(2) Single Family **with a unit size** between 3,500 and 7,000 sq. ft. ~~**of floor area**~~

(3) Single Family **with a unit size** greater than 7,000 sq. ft. ~~**of floor area**~~

(4) Multi Family Apartments (market rate) – Per Unit

(5) Affordable ~~**/Workforce**~~ Housing ~~**/Micro Apartments**~~ – Per Unit

(6) **Workforce Housing – Per Unit**

(7) **Co-living – Per Unit**

(b) Recreation and Entertainment

(1) Marina (Including dry storage) – Per Berth

(2) Golf Course – Per Hole

(3) Movie Theater – Per Screen

(4) Outdoor Commercial Recreation – Per Acre

(5) Community Center/Civic/Gallery/Lodge/Museum

(6) Indoor Commercial Recreation/Health Club/Fitness

(c) Institutional

(1) Continuing Care Facility/ Nursing Home/ Memory Care/ Congregate Care Facility/ Assisted/ Independent Living – Per Bed

(2) Private School (Pre-K-12)

(3) Place of Worship, including ancillary & accessory buildings

(4) Day Care Center

(d) Industrial

(1) Warehousing/Manufacturing/Industrial/Production

(2) Mini-Warehousing/Boat/RVs & Other Outdoor Storage

(3) Distribution/Fulfillment Center/Package Delivery Hub

(e) Office

(1) General Office/Research/Higher Education/Financial/Bank

(2) Medical/Dental/Clinic/Veterinary/Hospitals

(f) Service / Retail / Non-Residential

(1) Retail Sales / Personal and Business Services

(2) Pharmacy / Medical Cannabis Treatment Center/ Pain Management Clinic

(3) Supermarket

(4) Takeout Restaurant with no seating

(5) Restaurant with seating – Per Seat

(6) Restaurant drive-through – Per drive-through

(7) Bar/ Night Club / Pub without food service

(8) Motor Vehicle & Boat Sales / Service/ Repair / Cleaning / Parts

(9) Hotel / Lodging – Per Room

(10) Convenience Retail

(11) Motor Vehicle Fueling – Per Fuel Position

(12) Bank Drive-Through Lane, Stand Alone ATM or ATM Drive-Through Lane – Per Drive Through Lane and/or Per ATM. A bank without drive-through lanes or a drive-through ATM shall only be charged a mobility fee based on the office rate. A convenience store without gas pumps shall only be charged a mobility fee based on the square footage of the convenience store.

Sec. 122-27. - Mobility fee benefit district.

Miami Beach shall have a single Citywide Mobility Fee Benefit District.

Sec. 122-28. - Mobility fee fund established.

There is hereby established a mobility fee fund for the Mobility Fee Benefit District established in section ~~122-28~~ 122-27 hereof. For accounting purposes, the mobility fee fund shall be considered a special revenue fund. Transportation concurrency mitigation funds collected prior to or subsequent to the adoption of this ordinance shall be deposited into the mobility fee fund, and shall only be used for the purposes established in section ~~122-30~~ 122-29.

Sec. 122-29. - Use of mobility fee fund.

(a) The mobility fee fund shall be used by the city to fund capital expenses associated with transportation facilities, or portions thereof, that are located in the city, and that are included in the city's adopted capital improvement plan, transportation master plan, or comprehensive plan, and shall benefit new development located within the city.

(b) The fund may be used to further the goals of the city to reduce dependence on single-occupant vehicle trips, and encourage use of bicycle, pedestrian, and transit modes as a means of commuting and recreational mobility. Eligible projects may include, without limitation:

(1) Carpools;
(2) Van pools;
(3) Demand response service;
(4) Paratransit services (for special needs population);
(5) Public/private provision of transit service, bike sharing, or shared car initiatives;
(6) Provision of short term and long-term bicycle parking, showers, and changing facilities;
(7) Provision of parking for carpools;
(8) Alternative hours of travel, including flexible work hours, staggered work shifts, compressed work weeks and telecommuting options;
(9) Subsidy of transit fares;
(10) Use of long-term parking to be developed at or near the city's entry points;
(11) Shared vehicular and pedestrian access for compatible land uses, where possible;
(12) Shared parking agreements for compatible land uses, where possible;
(13) Provision of transit amenities;
(14) Car share vehicle parking;
(15) Traffic management and traffic monitoring programs;

(16) Incident management;
(17) Congestion management;
(18) Access management;
(19) Parking policies which discourage single-occupancy vehicles;
(20) The encouragement of carpools, vanpools, or ridesharing;
(21) Programs or projects that improve traffic flow, including projects to improve signalization;
(22) On road bicycle lanes, bicycle parking, and bicycle amenities at commercial and residential uses;
(23) Improve intersections, and implement Intelligent Transportation Systems (ITS) strategies, including pedestrian oriented intersection design strategies;
(24) Pedestrian countdown signals;
(25) Medians for pedestrian refuge and curb extensions; and
(26) Timing signals to minimize pedestrian delay and conflicts.

(c) If the capital expenses of a transportation facility will be fully paid from the mobility fee fund, the city manager shall make a written determination that (i) the demand for the transportation facility is reasonably attributable to new development in the city, and (ii) the transportation facility is not intended to alleviate an existing deficiency in the city's transportation network.

(d) If a portion of the demand for the transportation facility is reasonably attributable to new development in the city and a portion of the transportation facility will alleviate an existing deficiency in the city's transportation network, the city manager shall make a written determination of the percentage of the transportation facility attributable to new development and that percentage of the capital expenses (but not the deficiency portion) may be paid from the mobility fee fund.

(e) Any expenditure from a mobility fee fund not specifically authorized by this ~~division~~ article shall be repaid to the mobility fee fund from lawfully available revenue of the city.

SECTION 5. Appendix A of the Code of the City of Miami Beach, entitled "Fee Schedule," is hereby amended as follows:

APPENDIX A
FEE SCHEDULE

* * *

Section of this Code	*Description*	*Amount (Sales tax or other taxes may apply)*	*Annual Adjustment (References shown are defined at the end of this Appendix A)*
	Subpart B. Land Development Regulations		
	* * *		

Chapter 122. Concurrency and Mobility Fees			
122-24	Mobility Fee Administration Fee	400.00	[A]
122-24	Review of Estimate of Concurrency Mitigation and Mobility Fee	200.00	[A]

SECTION 6. APPLICABILITY.

This Ordinance shall not apply to developments that have an approved Order from the Board of Adjustment, Design Review Board, Historic Preservation Board, or Planning Board issued prior to the effective date of this Ordinance, or to developments that have been issued a building permit process number prior to the effective date of this Ordinance.

SECTION 7. REPEALER.

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith are hereby repealed.

SECTION 8. CODIFICATION.

It is the intention of the City Commission, and it is hereby ordained, that the provisions of this Ordinance shall become and be made part of the Code of the City of Miami Beach, as amended; that the sections of this Ordinance may be re-numbered or re-lettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 9. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 10. EFFECTIVE DATE.

This Ordinance shall take effect 90 days following adoption.

PASSED AND ADOPTED this _____ day of _____, 2019.

_____
Dan Gelber, Mayor

ATTEST:

_____
Rafael E. Granado, City Clerk

First Reading: September 11, 2019
Second Reading: October 16, 2019

APPROVED AS TO FORM
AND LANGUAGE
AND FOR EXECUTION

_____
City Attorney Date

Verified by: _____
Thomas R. Mooney, AICP
Planning Director