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# Chapter 3

## CONCURRENCY MANAGEMENT AND MOBILITY FEES <sup>1</sup>

### ARTICLE I – PURPOSE AND GENERAL PROVISIONS

#### 3.1.1 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.

#### 3.1.2 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 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.

#### 3.1.3 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. Stormwater: 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.

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<sup>1</sup> ~~Editor's note— Sec. 3 of Ord. No. 2019-4306, adopted Oct. 16, 2019, amended ch. 122 in its entirety to read as herein set out. Former ch. 122 pertained to concurrency management, consisted of §§ 122-1–122-10, and derived from Ord. No. 2000-3242, adopted Mar. 10, 2000.~~

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### 3.1.4 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.
- f. Non-elderly and elderly low and moderate income housing.

### 3.1.5 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, 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:
  - i. Name of applicant;
  - ii. Location, size, legal description, folio number, and existing use of the parcel or portion thereof proposed for development;
  - iii. 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;
  - iv. Schedule for phased developments;
  - v. Description of any proposed on-site or off-site infrastructure improvements;
  - vi. Any building permit documents that may be required by the planning department;
  - vii. The date of demolition permit, if applicable;
  - viii. Any other documents which may be requested by the planning department; and
  - ix. 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.

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### 3.1.6 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.
  - i. A violation of this chapter shall be subject to the following civil fines, in addition to any outstanding fees owed pursuant to this chapter:
    - 1. If the violation is the first violation, a person or business shall receive a civil fine of \$1,000.00;
    - 2. 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;
    - 3. 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;
    - 4. 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.
  - ii. 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 magistrate within ten days after service of the notice of violation, and that the failure to appeal the violation within ten days of service shall constitute an admission of the violation and a waiver of the right to a hearing.
  - iii. Rights of violators; payment of fine; right to appear; failure to pay civil fine or to appeal; appeals from decisions of the special magistrate.
    - 1. A violator who has been served with a notice of violation must elect to either:
      - a. Pay the civil fine in the manner indicated on the notice of violation; or
      - b. Request an administrative hearing before a special magistrate to appeal the notice of violation, which must be requested within ten days of the service of the notice of violation.
    - 2. 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.
    - 3. 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 magistrate, the special magistrate 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 magistrate, and shall be treated as an admission of the violation, for which fines and penalties shall be assessed accordingly.

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4. 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 61st day following the recording of any such lien that remains unpaid, the city may foreclose or otherwise execute upon the lien.
  5. Any party aggrieved by a decision of a special magistrate may appeal that decision to a court of competent jurisdiction.
  6. The special magistrate 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 days of the service of the notice of violation.
  7. The special magistrate 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.

## **ARTICLE II – CONCURRENCY**

### **3.2.1 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 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 stormwater management facilities shall be deemed available if they are:
  - i. In existence at the time of a determination of concurrency;
  - ii. 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
  - iii. 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:
  - i. In existence at the time of a determination of concurrency.
  - ii. 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
  - iii. 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

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- iv. 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; or
  - v. 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.

### 3.2.2 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:
  - i. For existing structures that have an active use, the current use shall be used as the basis for calculating capacity credits.
  - ii. For vacant structures or structures undergoing construction, the last active use shall be used as the basis for calculating capacity credits.
  - iii. 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 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 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 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 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 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 may utilize alternative procedures from those identified in this section to determine concurrency.

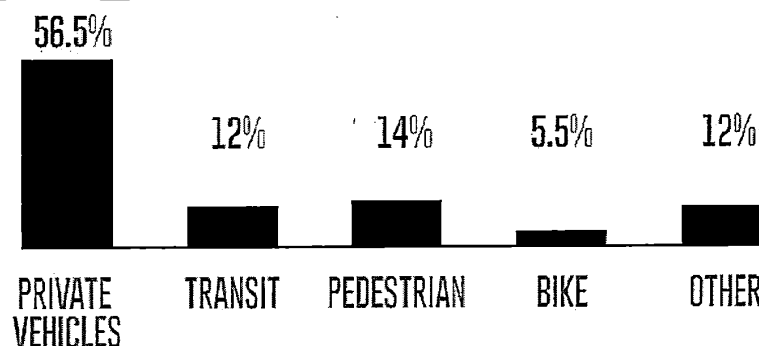
## ARTICLE III – MOBILITY FEES

### 3.3.1 LEGISLATIVE INTENT

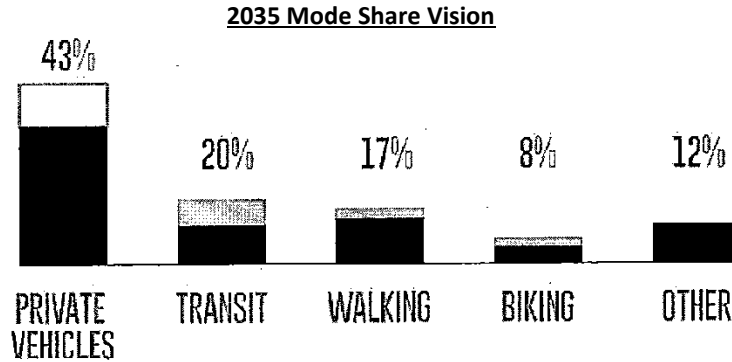
The city commission hereby finds, determines, as declares as follows:

- a. Pursuant to Article VIII of the Florida Constitution and F.S. ch. 166, 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 F.S. § 163.3180(5)(i) (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. Florida Statutes § 163.3180(5)(i), requires that a mobility fee must be based upon an adopted transportation mobility plan. The city 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:

1. 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:



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

### 3.3.2 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.

### 3.3.3 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 122-23](#).
- i. 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.
- ii. 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](#).

### 3.3.4 CALCULATION OF MOBILITY FEE

- a. [Reserved.]
- 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.

i. 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   |
| <u>Where:</u>                            |   |   |
| 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 |
|---|-----------------|--------------|
| <b>Residential</b>  |                 |              |
| Single-family with a unit size less than 3,500 sq. ft. <sup>1</sup>         | Per unit        | \$1,847.00   |
| Single-family with a unit size between 3,500 and 7,000 sq. ft. <sup>1</sup> | Per unit        | \$2,461.00   |
| Single-family with a unit size greater than 7,000 sq. ft. <sup>1</sup>      | Per unit        | \$3,076.00   |



| MOBILITY FEE SCHEDULE CATEGORY/LAND USE TYPE   | UNIT OF MEASURE | MOBILITY FEE |
|--|-----------------|--------------|
| Multifamily apartments   | Per unit        | \$1,515.00   |
| Non-elderly and elderly low and moderate income housing  | Per unit        | \$0.00       |
| Workforce housing  | Per unit        | \$758.00     |
| Co-living/micro apartments   | Per unit        | \$758.00     |
| <b>Recreation and entertainment</b>  |                 |              |
| Marina (including dry storage)   | Per berth       | \$308.00     |
| Golf course  | Per hole        | \$3,881.00   |
| Movie theater  | Per screen      | \$22,823.00  |
| Outdoor commercial recreation <sup>2</sup>   | Per acre        | \$1,829.00   |
| Community center/civic/gallery/lodge/museum  | Per sq. ft.     | \$1.86       |
| Indoor commercial recreation/health club/fitness   | Per sq. ft.     | \$4.54       |
| <b>Institutional</b>   |                 |              |
| Continuing care facility/nursing home/memory care/congregate care facility/assisted/independent living | Per bed         | \$740.00     |
| Private school (Pre-K-12)  | Per sq. ft.     | \$2.09       |
| Place of worship, including ancillary and accessory buildings  | Per sq. ft.     | \$1.78       |
| Day care center  | Per sq. ft.     | \$3.87       |
| <b>Industrial</b>  |                 |              |
| Warehousing/manufacturing/industrial/production (under roof)   | Per sq. ft.     | \$1.53       |
| Mini-warehousing/boat/RVs and other outdoor storage <sup>3</sup>                                       | Per sq. ft.     | \$0.46       |
| Distribution/fulfillment center/package delivery hub   | Per sq. ft.     | \$2.14       |
| <b>Office</b>  |                 |              |

| MOBILITY FEE SCHEDULE CATEGORY/LAND USE TYPE   | UNIT OF MEASURE                    | MOBILITY FEE |
|--|------------------------------------|--------------|
| General office/research/higher education/financial/bank  | Per sq. ft.                        | \$3.33       |
| Medical/dental/clinic/veterinary/hospital  | Per sq. ft.                        | \$7.60       |
| <b>Service/retail/non-residential</b>  |                                    |              |
| Retail sales/personal and business services <sup>4</sup>   | 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 <sup>5</sup>  | Per sq. ft.                        | \$11.07      |
| Restaurant with seating <sup>5</sup>   | Per seat                           | \$877.00     |
| Restaurant drive-thru <sup>5</sup>   | Per drive-thru                     | \$9,110.00   |
| Bar/night club/pub without food service <sup>4</sup>   | Per sq. ft.                        | \$26.12      |
| Motor vehicle and boat sales/service/repair/cleaning/parts   | Per sq. ft.                        | \$6.26       |
| Hotel/lodging <sup>6</sup>   | Per room                           | \$1,721.00   |
| Convenience retail <sup>7</sup>  | Per sq. ft.                        | \$19.48      |
| Motor vehicle fueling  | Per fuel position                  | \$6,413.00   |
| Bank drive-thru lane, stand-alone ATM or ATM drive-thru lane <sup>8</sup>  | Per drive thru lane and/or per ATM | \$12,170.00  |
| Notes:   |                                    |              |
| <sup>1</sup> Floor area is based on areas that count towards the maximum unit size pursuant to the single-family district regulations. |                                    |              |
| <sup>2</sup> The sq. ft. for any buildings or structure shall not be excluded from the acreage.  |                                    |              |
| <sup>3</sup> Acreage for any unenclosed material and vehicle storage shall be converted to sq. ft.                                     |                                    |              |
| <sup>4</sup> Areas under canopy for seating, display, storage and sales shall be converted to sq. ft.                                  |                                    |              |
| <sup>5</sup> Separate fees are associated with any drive-thru lane(s) associated with a restaurant.                                    |                                    |              |

| MOBILITY FEE SCHEDULE CATEGORY/LAND USE TYPE   | UNIT OF MEASURE | MOBILITY FEE |
|--|-----------------|--------------|
| <sup>6</sup> 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.   |                 |              |
| <sup>7</sup> 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.          |                 |              |
| <sup>8</sup> 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 freestanding 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 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.

### 3.3.5 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 60 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.

### 3.3.6 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.*
  - i. Single-family with a unit size less than 3,500 square feet.
  - ii. Single-family with a unit size between 3,500 and 7,000 square feet.
  - iii. Single-family with a unit size greater than 7,000 square feet.
  - iv. Multifamily apartments (market rate): Per unit.
  - v. Affordable housing: Per unit.
  - vi. Workforce housing: Per unit.
  - vii. Co-living: Per unit.
- b. *Recreation and entertainment.*
  - i. Marina (including dry storage)—Per berth.
  - ii. Golf course—Per hole.
  - iii. Movie theater—Per screen.
  - iv. Outdoor commercial recreation—Per acre.
  - v. Community center/civic/gallery/lodge/museum.
  - vi. Indoor commercial recreation/health club/fitness.
- c. *Institutional.*
  - i. Continuing care facility/nursing home/memory care/congregate care facility/assisted/independent living—Per bed.
  - ii. Private school (Pre-K-12).
  - iii. Place of worship, including ancillary and accessory buildings.
  - iv. Day care center.
- d. *Industrial.*
  - i. Warehousing/manufacturing/industrial/production.
  - ii. Mini-warehousing/boat/RVs and other outdoor storage.
  - iii. Distribution/fulfillment center/package delivery hub.
- e. *Office.*
  - i. General office/research/higher education/financial/bank.
  - ii. Medical/dental/clinic/veterinary/hospitals.
- f. *Service/retail/nonresidential.*

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- i. Retail sales/personal and business services.
  - ii. Pharmacy/medical cannabis treatment center/pain management clinic.
  - iii. Supermarket.
  - iv. Takeout restaurant with no seating.
  - v. Restaurant with seating—Per seat.
  - vi. Restaurant drive-through—Per drive-through.
  - vii. Bar/night club/pub without food service.
  - viii. Motor vehicle and boat sales/service/repair/cleaning/parts.
  - ix. Hotel/lodging—Per room.
  - x. Convenience retail.
  - xi. Motor vehicle fueling—Per fuel position.
  - xii. 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.

### **3.3.7 MOBILITY FEE BENEFIT DISTRICT**

Miami Beach shall have a single citywide mobility fee benefit district.

### **3.3.8 MOBILITY FEE FUND ESTABLISHED**

There is hereby established a mobility fee fund for the mobility fee benefit district established in [section 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 122-29](#).

### **3.3.9 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:
  - i. Carpools;
  - ii. Van pools;
  - iii. Demand response service;
  - iv. Paratransit services (for special needs population);
  - v. Public/private provision of transit service, bike sharing, or shared car initiatives;
  - vi. Provision of short-term and long-term bicycle parking, showers, and changing facilities;
  - vii. Provision of parking for carpools;
  - viii. Alternative hours of travel, including flexible work hours, staggered work shifts, compressed work weeks and telecommuting options;
  - ix. Subsidy of transit fares;
  - x. Use of long-term parking to be developed at or near the city's entry points;
  - xi. Shared vehicular and pedestrian access for compatible land uses, where possible;
  - xii. Shared parking agreements for compatible land uses, where possible;

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- xiii. Provision of transit amenities;
  - xiv. Car share vehicle parking;
  - xv. Traffic management and traffic monitoring programs;
  - xvi. Incident management;
  - xvii. Congestion management;
  - xviii. Access management;
  - xix. Parking policies which discourage single-occupancy vehicles;
  - xx. The encouragement of carpools, vanpools, or ridesharing;
  - xxi. Programs or projects that improve traffic flow, including projects to improve signalization;
  - xxii. On road bicycle lanes, bicycle parking, and bicycle amenities at commercial and residential uses;
  - xxiii. Improve intersections, and implement Intelligent Transportation Systems (ITS) strategies, including pedestrian oriented intersection design strategies;
  - xxiv. Pedestrian countdown signals;
  - xxv. Medians for pedestrian refuge and curb extensions; and
  - xxvi. 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 article shall be repaid to the mobility fee fund from lawfully available revenue of the city.