

City of Dade City

AGENDA MEMO

To: Honorable Camille Hernandez, Mayor and Members of the City Commission
THRU: William C. Poe, Jr., City Manager
FROM: Michael Sherman, AICP, Community Development Director
SUBJECT: Second Reading and Second Public Hearing, Ordinance 2016-01
Multi-Modal Transportation Impact Fee Public Hearing 2
DATE: 23 February 2016

BACKGROUND:

Tonight for the City Commission's (CCOM's) consideration and for a public hearing is ordinance 2016-01 which adopts a new Multi-Modal Transportation Impact Fee (TIF) program for the City. Approximately three years ago, the CCOM suspended the existing TIF program to allow and encourage new and redevelopment during the great recession and to give staff, along with a consultant time to prepare a new program to be considered by the Commission. In December of 2014, the City retained Keith & Schnars as project lead for a consultant team consisting of K&S, NUE Urban Concepts and Fishkind & Associates. Over the past months, city staff has been working closely with the consultant to develop an updated TIF program that replaces the existing program. On January 12, the CCOM held a workshop on the updated TIF program.

On February 03, the Planning Board held a hearing at their regularly scheduled meeting to consider the proposed Transportation Impact Fee program. The Planning Board recommended approval with a few minor changes.

On February 09, the City Commission held a public hearing and first reading of the ordinance.

RECOMMENDATION:

Adopt Ordinance 2016-01 on 2nd and final reading

BY THE CITY COMMISSION

ORDINANCE NO.:2016-01

AN ACT TO BE ENTITLED AN ORDINANCE SUBSTANTIALLY AMENDING AND REWRITING ORDINANCE NO: 2006-0935 CODIFIED IN THE DADE CITY CODE OF ORDINANCES, CHAPTER 2, ARTICLE VII, SECTIONS 2-471 THROUGH 2-494 ; TO ADOPT MULTI-MODAL TRANSPORTATION IMPACT FEES TO BE IMPOSED ON NEW DEVELOPMENT; PROVIDING A PURPOSE AND INTENT; PROVIDING DEFINITIONS; PROVIDING RULES OF CONSTRUCTION; PROVIDING FINDINGS; PROVIDING FOR THE ADOPTION OF IMPACT FEE STUDIES; PROVIDING REVIEW PROCEDURES; PROVIDING GENERAL PROVISIONS AND APPLICABILITY; PROVIDING PROCEDURES FOR IMPOSITION, CALCULATION AND COLLECTION OF IMPACT FEES; PROVIDING FOR AN INDEPENDENT IMPACT FEE STUDY PROCEDURE; PROVIDING FOR EXEMPTIONS AND CREDITS; PROVIDING FOR THE PAYMENT AND COLLECTION OF IMPACT FEES; PROVIDING FOR CITY ENFORCEMENT OF THE IMPACT FEE ORDINANCE; PROVIDING AN APPEAL PROCEDURE; PROVIDING FOR THE ESTABLISHMENT OF IMPACT FEE FUNDS, PROVIDING FOR THE APPROPRIATION OF IMPACT FEE FUNDS AND REFUNDS; PROVIDING FOR CONFLICT; PROVIDING FOR THE EFFECT OF THE MULTI-MODAL TRANSPORTATION IMPACT FEE ORDINANCE ON OTHER REGULATIONS AND DEVELOPMENT ORDERS; PROVIDING FOR INCLUSION INTO THE DADE CITY CODE OF ORDINANCES; PROVIDING FOR THE REPEAL OF THE NEW DEVELOPMENT FAIR SHARE CONTRIBUTION FOR ROAD IMPROVEMENTS ORDINANCE NO. 2006-0935, AS SUBSEQUENTLY AMENDED; PROVIDING AN EFFECTIVE DATE AND PROVIDING FOR MODIFICATION THAT MAY ARISE FROM CONSIDERATION OF THE ORDINANCE AT PUBLIC HEARING.

WHEREAS, the City Commission has authority to adopt this Ordinance through general home rule powers pursuant to Article VIII of the 1968 Florida Constitution, Chapter 166, Florida Statutes, and more specifically, Section 163.31801, Florida Statutes; and

WHEREAS, the City is experiencing rapid growth that necessitates the addition of capacity to City transportation facilities including pedestrian and bicycle; and

WHEREAS, increasing the capacity of arterial, collector and other roads to make them safe and more efficient, in coordination with a plan for the control of traffic, is the recognized responsibility of the City through Chapter 166, Florida Statutes, and is in the best interest of the public health, safety and welfare; and

WHEREAS, through Section 163.31801, the Florida Legislature has found that impact fees are an outgrowth of their home rule power and are an important source of revenue for a local government to use in funding the infrastructure necessitated by new growth; and

WHEREAS, planning for the necessary expansion of transportation improvements created by development activity generating new traffic through the comprehensive planning process, and the implementation of these plans, is a mandatory responsibility of the City through Section 163.3161, et seq., Florida Statutes, and is in the best interest of public health, safety and welfare; and

WHEREAS, the City has recently reviewed and studied the necessity for, and implications of, the imposition of impact fees for funding the addition of capacity of the City's multi-modal transportation facilities including bicycle and pedestrian facilities; and

WHEREAS, since the last update of the City's transportation impact fees, a number of factors, studies and tools used in the Ordinance have been updated which requires the Commission to update and replace the old New Development Fair Share Contribution for Road Improvements Ordinance; and

WHEREAS, the City has found and determined that pursuant to Florida caselaw and Section 163.31801, Florida Statutes, multi-modal transportation impact fees are appropriate for funding the addition of capacity to the City's transportation facilities including bicycle and pedestrian facilities; and

WHEREAS, the City has found and determined that most multi-modal transportation impact fees will have certain common characteristics and, therefore, the City will benefit from the adoption and use of a uniform procedure for the imposition, calculation, collection, expenditure and administration of the multi-modal transportation impact fee ordinance; and

WHEREAS, all monies collected from the multi-modal transportation impact fee will be deposited in the multi-modal transportation impact fee fund which clearly identifies these monies in a separate accounting fund as multi-modal transportation impact fees; and

WHEREAS, this ordinance shall apply to the incorporated area of the City of Dade City; and

WHEREAS, this ordinance is consistent with the City of Dade City Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DADE CITY, FLORIDA, as follows:

SECTION 1. Ordinance No. 2006-0935, subsequently codified as Chapter 2, Article VII of the Dade City Code of Ordinances is hereby substantially revised and rewritten as follows:

ARTICLE VII-FINANCE

DIVISION 3

Sec. 2-471 Short Title and Applicability.

1. This subdivision shall be known and may be cited as the "Dade City Multi-Modal Transportation Impact Fee Ordinance".
2. The City Commission has authority to adopt this Ordinance through Florida caselaw, general non- charter home rule powers pursuant to Chapter 166, Florida Statutes, and Section 163.31801, Florida Statutes; and
3. Increasing the capacity of arterial, collector and other roads to make them safe and more efficient is in the best interest of the public health, safety, and welfare; and
4. Providing and increasing the capacity of pedestrian and bicycle facilities along with other transportation improvements will increase the mobility of City residents; and
5. Planning for the necessary provision of new roads, roadway improvements, and pedestrian/bicycle facilities created by new land development activity generating traffic is a responsibility of local government, and is in the best interest of the public health, safety and welfare; and
6. This Ordinance shall apply to the incorporated area of the City except as otherwise specifically provided by any duly executed intergovernmental agreement with the County or the State; and
7. The Dade City Multi-Modal Transportation Impact Fee Technical Report dated December 2015 and prepared by Keith and Schnars, P.A. and NUE Urban Concepts, LLC serves as a supporting document for the replacement of the New Development Fair Share Contribution for Road Improvements(Ord. No. 2006-0935, 8-8-06). The Report is based on the most recent technical analysis, and as required by Section 193.31801, Florida Statutes, the "Florida Impact Fee Act", and the data utilized in the Report is based on the most recently available local data. The multi-modal transportation impact fee outlined in this Ordinance has been structured to support land uses desired by the City, and to provide the elected officials with the flexibility to construct stand-alone bicycle and pedestrian facilities in addition to intersection and roadway capacity improvements.

Sec. 2-472 **Purpose and Intent.**

1. The City Commission has determined and recognized through adoption of the Dade City Comprehensive Plan and amendments thereto that the growth rate which the City is experiencing will necessitate road network improvements, and continue to make it necessary to regulate new development activity generating traffic in order to maintain an acceptable level of road service and quality of life within the City. In order to finance the necessary new capital improvements and regulate traffic generation levels, several combined methods of financing will be necessary, one of which will require that new development activity generating traffic pay a multi-modal transportation impact fee developed and adopted in compliance with Section 163.31801, Florida Statutes.
2. Providing and regulating arterial, collector and other roads and related facilities including pedestrian and bicycle facilities within the City limits to make them safer and more efficient in coordination with a plan for the control of traffic, is the recognized responsibility of the City through Chapter 166, Florida Statutes, and is in the best interest of the public health, safety and welfare.
3. Implementing a regulatory scheme that requires development activity generating new traffic to pay a multi-modal transportation impact fee is the responsibility of the City in order to carry out the goals, objectives and policies of its Comprehensive Plan under Section 163.3161, et seq., Florida Statutes, and is in the best interest of the public health, safety and welfare.
4. It is the purpose of this Ordinance to establish a regulatory fee to assist in providing increased capacity for the major road network system to accommodate the increased demand development activity generating new traffic will have on the area's road system. New development activity generating traffic will require the payment of a multi-modal transportation impact fee which has been calculated to meet the statutorily required dual rational nexus test and is reasonably attributable to the impact of the new development. This multi-modal transportation impact fee will for the exclusive purpose of providing increased capacity for the major road network system, pedestrian and bicycle facilities, and the City shall account for the revenues and expenditures of such impact fee in a separate accounting fund.
5. The impact fee methodology included herein consists of establishing a transportation capacity that accounts for vehicle, pedestrian and bicycle travel as part of an overall multi-modal transportation system. The methodology also includes the construction cost associated with roadways, pedestrian and bicycle facilities. To provide a nexus for the expenditure of multi-modal transportation impact fees on stand-alone pedestrian and bicycle facilities, a capacity and associated cost have been included in the methodology to place vehicle, pedestrian and bicycle facilities on an equivalent level. This ensures that new development receives a capacity benefit for all three modes of travel since the

- construction cost includes vehicular travel lanes as well as pedestrian and bicycle facilities. Pedestrian facilities can include sidewalks, paths, and trails. Paths can be designed to also accommodate bicycle travel. Trails can support walking, bicycling, horseback riding, other non-motorized forms of travel and, in some instances, golf carts.
6. It is in the interest of the public health, safety, welfare, and convenience for the City to regulate land development, and other related facilities by requiring a multi-modal transportation impact fee as a condition of approval of any development activity generating new traffic.
 7. The inclusion of capacity for pedestrian and bicycle facilities allows for the City to expend funds on stand-alone pedestrian and bicycle projects, as well as intersection and roadway improvements.
 8. To encourage mixed-use development, the multi-modal transportation impact fee recognizes upfront the internal capture benefit of mixed-use developments and provides a lower fee than for stand-alone single use developments. A separate land use category and lower impact fee has been developed for Conservation subdivisions to recognize the reduced impact of these types of development over a conventional single-family subdivision.
 9. The purpose of this Ordinance is to continue to enable the City of Dade City to allow new development consistent with the adopted Comprehensive Plan, and to regulate development activity generating new traffic so as to require it to share in the burdens of growth by paying its attributable share for the reasonably anticipated expansion costs of transportation facilities and road improvements. This growth will help pay for itself, and the existing residents of the City will not have the full financial burden of providing increased road and other transportation facility capacity at the outset.
 10. The City has, in consultation with the Florida Department of Transportation and Pasco County, adopted levels of service for that portion of the state highway system lying within the City that is included in the Comprehensive Plan.
 11. The Technical Data, Findings, and Conclusions herein are based on but not limited to the following documents: City's Comprehensive Plan; City of Dade City 2015 Multi-Modal Transportation Impact Fee Technical Report dated December 2015 prepared by Keith and Schnars, P.A. and NUE Urban Concepts, LLC; The Institute of Transportation Engineers (ITE) Trip Generation Manual dated 2012, as amended; Federal Highway Administration 2009 National Household Travel Survey; and the 2012 Florida Department of Transportation Roadway Capacity Tables.

Sec. 2-473 Definitions.

The words or phrases used herein shall have the following meanings except as otherwise indicated herein:

"Accessory building or structure" shall mean a detached, subordinate building, the use of which is clearly incidental and related to that of the principal building or use of the land, and which is located on the same lot as that of the principal building or use.

"Building" shall mean any structure, having a roof and used or built for the enclosure or shelter of persons, animals, vehicles, goods, merchandise, equipment, materials or property of any kind for a period of time in excess of four (4) weeks in any one (1) calendar year. This term shall include tents, trailers, mobile homes, or any vehicles serving in any way the function of a building. This term shall also include outdoor patio seating provided as part of a restaurant or bar, whether such seating is covered by a roof or not. This term shall also include outdoor areas used for the storage or display of for sale merchandise for retail uses, except for vehicular sales which shall be limited to square footage of physical building structures with a roof, whether such seating is covered by a roof or not.

"Building Permit" shall mean an official document or certificate issued by the authority having jurisdiction, authorizing the construction of any building. The term shall also include tie-down permits for those structures or buildings that do not require a building permit, such as a mobile home, in order to be occupied.

"Capital Improvement" shall mean any long-term investment of public funds for the acquisition, construction, or improvement of public lands or facilities that, by reason of its size and cost, is nonrecurring in the local budget.

"Capital Improvement Plan" or "CIP" shall mean a multi-year schedule of capital improvement projects, including priorities and cost estimates, budgeted to fit the financial resources of the community. This plan is updated annually and is part of the City's Comprehensive Plan.

"Community Retail" shall mean individual retail uses that are between 10,000 square feet and 50,000 square feet in size that are not otherwise specifically included in the Multi-Modal Transportation Fee Schedule. or

"Community Retail" shall mean individual retail uses that are greater than 20,000 square feet in size that are not otherwise specifically included in the Multi-Modal Transportation Fee Schedule.

"Conservation Subdivision" shall mean a residential development that clusters homes and preserves open space as defined in the Comprehensive Plan.

"Collecting Agency" shall mean the governmental authority having jurisdiction to authorize the making of any material change of any structure including the construction, enlargement, alteration, or repair of buildings, or the governmental authority having

jurisdiction to authorize site development that makes material changes in the use or appearance of land without making material changes of any structures on the land.

"Cost Feasible Plan" shall mean a plan that is an element within a long-range transportation plan and that provides for a future year transportation system based on the limitations of projected available financial resources. This plan typically consists of a list of transportation projects that will be completed within the 20-year (at a minimum) planning horizon of the long-range plan, along with a corresponding map of the improvements.

"City Manager" shall mean the City Manager of the City of Dade City or his designee.

"Development Permit" shall mean an official document or certificate, other than a building permit, issued by the authority having jurisdiction, authorizing commencement of land development activity. This term includes any mining permit, land-filling permit, or other final plan approval for land development activity not involving construction of a building.

"Discount Retail" shall mean a use that is commonly referred to as a "Big Box" and is a national or statewide retailer that includes a retail space greater than 20,000 square feet in size in a relatively open format that sells items such as, but not limited too, electronics, furniture, apparel, daily staples, recreation, physical and outdoor activity equipment and building supplies.

"Dwelling Unit" means a single unit providing complete independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

"Encumber" shall mean an irrevocable commitment through an agreement or purchase order or a contract.

"External Trip" shall mean any trip which either has its origins from or its destination to the development site and which impacts the major road network system.

"Internal Trip" shall mean a trip that has both its origin and destination within the development site.

"Major Road Network System" shall mean all arterial and collector roads within or benefiting the City and designated or identified in the adopted City Comprehensive Plan, including new arterial and collector roads necessitated by land developments.

"Mixed-Use" shall mean either a vertically mixed-use building with retail on the 1st floor and at least one floor of office and / or residential above the 1st floor or a unified development with three or more land uses that at least includes office, retail and residential uses with roadway and multimodal Interconnectivity that does not require vehicular and non-motorized uses to utilize an external arterial or collector to access the other uses or as defined in the comprehensive plan or an approved planned development.

"Multi-Modal Transportation Impact Fee," or "Fee" shall mean the fee required to be paid in accordance with this Ordinance.

"Multi-Family" shall mean a building with four or more dwelling units under.

"Neighborhood Retail" shall mean individual retail uses that are less than 10,000 square feet in size that are not otherwise specifically included in the Multi-Modal Transportation Fee Schedule. or

"Neighborhood Retail" shall mean individual retail uses that are less than 20,000 square feet in size that are not otherwise specifically included in the Multi-Modal Transportation Fee Schedule.

"New Development" or "Development Activity Generating New Traffic" shall mean the carrying out of any building activity or the making of any material change in the use or appearance of any structure or land that attracts or produces vehicular trip(s) over and above that produced by the existing use of the land.

"Non-commencement" shall mean notice to the City of intent not to commence development or the date of expiration of a building permit.

"Out parcel" shall mean a parcel that is separate from, but contiguous to, a primary

commercial development. The parcel may, or may not, share common access and/or common parking area with the primary commercial development. Mainly consisting of a single freestanding unit, an out parcel often is considered secondary in nature to the primary commercial development. Outparcels typically involve high convenience land uses, such as banks, high turnover or fast-food restaurants, or gas stations. However, extensions of specific land uses already in existence within the primary commercial development would not be considered "outparcels" (e.g., a freestanding Sears automotive repair shop located at a shopping mall that contains a Sears retail store).

"Planned Development" shall mean a land area under unified control designed and planned to be developed in a single operation or by a series of prescheduled development phases according to an officially approved final master land use plan, including but not limited to planned unit developments, master planned unit developments, planned commercial developments and similar planned developments. A Planned Development may also include commercial or industrial development or conservation subdivisions.

"Regional Retail" shall mean individual retail uses that are greater than 50,000 square feet in size that are not otherwise specifically included in the Multi-Modal Transportation Fee Schedule. or

"Right-of-Way" shall mean land, property, or interest therein, that is necessary to accommodate all of the required elements for and to support the construction and/or improvement of roads, streets, highways, and bridges on the major road network system, including all roadway facilities.

"Roadway Facilities" shall mean the construction of through lanes, turn lanes, bridges, curbs, medians, and/or shoulders; the construction of drainage facilities and/or mitigation areas; the installation of signage and/or traffic signalization; the placement of rail beds, pipelines, electric power lines, and/or telephone facilities; the placement of any amenities typically associated with transportation facility construction (e.g., sidewalks, bicycle lanes, etc.); and to ensure appropriate safety elements within design (e.g., establishment of clear zones).

"Single Family" shall mean a single residential detached dwelling unit.

"Site Related" improvements shall mean improvements to transportation facilities at or near the development site which are necessary to interface the development's external trips with the major road network system or which are necessary to interface the development's internal trips with the major road network system where a portion of the major road network system is included within the development (i.e., project drives, turn lanes, signalization, etc.). It shall also include improvements designed to insure safe and adequate ingress and egress. For purposes of this Ordinance, site related improvements include, but are not limited to, any right-of-way dedications necessary to construct the first four (4) lanes of a roadway on the major road network system within the development site, and design and construction of any portion of the first two (2) lanes of a roadway on the major road network system within the development site, including all roadway facilities necessary for the design and construction of the first two (2) lanes of such roadway.

"State Highway System" shall mean the roads that the Florida Department of Transportation has responsibility for ownership and maintenance.

"Townhome" shall mean a single family attached dwelling unit.

"Transportation Facilities " shall include transportation planning and design, right-of-way and land acquisition, land improvement, engineering, and construction of any project eligible for inclusion as a transportation or road project in the City's Comprehensive Plan including pedestrian and/or bicycle facilities. The term does not include routine and periodic maintenance, personnel, training, or other operating costs of transportation facilities or roads.

"Trip" shall mean a one-way movement of vehicular travel from an origin (one trip end) to a destination (the other trip end). For the purpose of this Ordinance, trip shall have the meaning that it has in commonly accepted traffic engineering practice and which is substantially the same as that definition in the previous sentence.

"Trip Generation" shall mean the attraction or production of trips caused by a given type of land development.

"District" shall mean the geographical boundary or area of the City as expanded in the future by annexation or other methods.

Sec. 4-474 Rules of Construction.

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

1. In the case of any difference of meaning or implication between the text of this ordinance and any caption, illustration, summary table, or illustrative table, the text shall control.
2. The word "shall" is always mandatory and not discretionary; the word "may" is permissive.
3. Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
4. The phrase "used for" includes "arranged for", "designed for", "maintained for" or "occupied for".
5. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
6. Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and", "or", or "either...or", the conjunction shall be interpreted as follows:
 - (a) "And" indicates that all the connected terms, conditions, provisions, or events shall apply.
 - (b) "Or" indicates that the connected items, conditions, provisions, or events shall apply.
 - (c) "Either...or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
7. The word "includes" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind of character.

8. Where a road right-of-way is used to define zone boundaries, that portion of the road right-of-way demarcating the boundary may be considered as part of any zone it bounds.

Sec. 2-475 Findings.

It is hereby ascertained, determined and declared:

1. That the City has determined that capital improvements to the City's area transportation facilities are necessary in order to maintain current and/or adopted levels of service in order for new development to be accommodated without decreasing the current and/or adopted levels of service.
2. That the City has determined that gas tax revenue and other currently available revenues will not be sufficient to provide the capital improvements to the transportation facilities that are necessary to accommodate growth resulting from new development.
3. That Section 163.3177, Florida Statutes, requires the City to adopt a Comprehensive Plan containing a capital improvements element that considers the need and location of public facilities within its jurisdiction and the projected revenue source that will be utilized to fund these facilities. That the establishment of a multi-modal transportation impact fee is consistent with and is necessary for implementing the City's Comprehensive Plan and supporting policies of the Capital Improvements Element, and is necessary to ensure coordination of new development with the provision of transportation facilities.
4. That Section 163.31801, Florida Statutes, the Florida Impact Fee Act, specifically authorizes local governments to adopt impact fees as an outgrowth of the home rule power in order to provide certain services within its jurisdiction.
5. That the implementation of a multi-modal transportation impact fee to require future growth to contribute its reasonable attributable cost of growth-necessitated capital improvements to the City's transportation facilities is necessary and reasonably related to the public health, safety, and welfare of the people of the City of Dade City.
6. That providing transportation facilities which include not only roadways but pedestrian and bicycle facilities that are adequate for the needs of growth serves the general welfare of all residents of the City and constitutes a public purpose.
7. That the City shall be divided into one impact fee District. The District boundaries shall be the same as the City Limits and shall be adjusted automatically for annexations. Upon updates of the Multi-Modal Transportation Impact Fee, an updated map shall be provided. Funds collected within the District maybe expended anywhere within the District.
8. That impact fees paid pursuant to this Ordinance will be earmarked and accounted for, and the revenues and expenditures of such impact fee shall be accounted for in a separate accounting fund.

9. Administrative charges for the collection of impact fees shall be limited to actual costs.

10. That the Commission has considered the short and long term public and private costs and benefits of the proposed multi-modal transportation impact fee ordinance and the Technical Memorandum dated December 2015 prepared by Keith and Schnars, P.A. and NUE Urban Concepts, LLC and has determined that sufficient information has been provided to enable the Commission to act.

11. That the Commission further finds that the provisions of this Ordinance are in compliance and consistent with Section 163.31801, Florida Statutes, and Florida caselaw as established by the Florida Supreme Court.

Sec. 2-476 Adoption of Impact Fee Technical Memorandum.

The Commission hereby adopts and incorporates by reference the following Impact Fee Update Study and findings included therein: City of Dade City Multi-Modal Transportation Impact Fee Technical Report dated December 2015, prepared by Keith and Schnars, P.A. and NUE Urban Concepts, LLC.

Sec. 2-477 Term and Review.

1. This Ordinance shall remain in effect unless and until repealed, amended or modified by the Commission in accordance with applicable State law and City Charter, ordinances and/or resolutions.

2. No later than five (5) years from the adoption of this Ordinance, the City shall conduct a full evaluation of all components of the multi-modal transportation impact fee. However, in the event that a full evaluation is not complete within the five (5) year period, the last-adopted construction cost schedule, right-of-way cost schedule, and all other components of the multi-modal transportation impact fee shall remain in effect until the study is complete.

3. In addition to the foregoing, the amount of the multi-modal transportation impact fee may be considered by the City Commission during the preparation of each fiscal year's budget. Such review shall consider right-of-way and construction costs for work contracted for by the County, the City and the Florida Department of Transportation within Pasco County. The purpose of this review is to analyze the effects of inflation on the actual costs of right of way and roadway construction, and to insure the fee charged to the land development activity generating new traffic will not exceed their pro rata share for the reasonably anticipated expansion costs of road improvements necessitated solely by their presence pursuant to Section 163.31801, Florida Statutes.

Sec. 2-478 Calculation.

1. It has been determined by the City Commission that any development activity

generating new traffic in the City should be charged a reasonable multi-modal transportation impact fee to help regulate new development's effect on major roadways, pedestrian and bicycle facilities.

2. After the adoption date of this Ordinance, multi-modal transportation impact fees shall be imposed in accordance with the terms of this Ordinance.

3. The multi-modal transportation impact fee shall be determined by using the following methods:

(a) Independent multi-modal transportation impact fee studies in accordance with the provisions set forth herein.

(b) The multi-modal transportation impact fee formula(s) set forth herein, which for each land use category, are utilized to calculate the net impact fee as follows:

Impact Fee Per Land Use = (Transportation Capacity Rate) X (VMT per Land Use divided by 2).

Transportation Capacity Rate:

LMcost = Average Lane Cost + Stormwater Facility Cost + Right turn Lane Cost + Traffic Signal Cost + Bicycle Lane Cost + Pedestrian Facility Cost.

TC = Average Vehicle Capacity + Bike Lane Capacity + Average Pedestrian Facility Capacity.

TCr = (LMct/Tc).

Where:

LMcost = Lane Mile Cost.

TC = Transportation Capacity.

TCr = Transportation Capacity Rate Per Lane Mile.

Vehicle Miles of Travel Per Land Use:

VMT per Land Use = ((TG x % NEW x ((LENGTH x TLA) x UA)).

VMT per Land Use (Mixed Use) = (TG x %IC x %NEW x ((LENGTH x TLA) x UA)).

Where+:

VMT = Vehicle Miles of Travel.

TG = Trip generation during average weekday.

IC = Internal Capture Rate.

% NEW = Percent of trips that are primary trips, as opposed to pass-by or diverted-link trips.

LENGTH = Local Average Trip Length.

TLA = Trip Length Adjustment to account for a convenience, neighborhood community and regional travel.

UA = Urban Area Trip Length Adjustment Factor.

(c) An Impact Fee Schedule has been developed for a number of land use categories. This schedule can be consulted in those cases for which an independent traffic impact analysis has not been prepared or is not desired. The fees on the fee schedule have been calculated using the formula(s) presented above.

(d) In multi-use buildings, if one (1) use occupies twenty-five percent (25%) or more of the total gross square feet of the total center or building, that use shall be assessed as its specific use rate.

(e) No fee shall be assessed upon issuance of a commercial retail shopping center building permit, foundation permit, or a non-retail multi-use building permit for an unfinished building (i.e., a shell at permit). Each individual use shall thereafter be assessed the appropriate retail rate upon subsequent issuance of a building permit to finish the unit. For the purpose of this section, shopping centers are not considered a multi-use building or a mixed-use building. Out parcels shall be assessed at the rate of the specific single use.

Sec. 2-479 Imposition of Fee.

The multi-modal transportation impact fee shall be assessed upon the issuance of any building permits for any land development activity generating new traffic and shall be collected and payable before issuance of any certificate of occupancy in accordance with the fees set forth herein. In the event that a building permit has been issued prior to the adoption date of this Ordinance, the multi-modal transportation impact fee for such building permit will be calculated based on the previously adopted fee or prior fiscal year's fee. The fees set forth herein shall apply to any building permit issued after the adoption date of this Ordinance except for building permits applied for and deemed complete on or before the adoption date of this Ordinance or where a building a construction contract fully executed on or before the effective date of this Ordinance and an affidavit of at least one party to the contract attesting to the date of execution is included; however such excepted building permit applications shall be subject to the previously adopted fees, if any had been assessed. The foregoing exception shall not apply if the building permit application is considered abandoned in accordance with the Florida Building Code. In the event a

building permit or certificate of occupancy is not required for new or additional development which is subject to the provisions of this Ordinance, then the fee shall be due upon issuance of a development permit authorizing commencement of the new development activity and payable upon final site inspection. All funds collected shall be properly and promptly transferred to the City Clerk's Office for deposit in the appropriate special revenue fund to be allocated to a separate multi-modal transportation impact fee fund and used solely for the purposes as established by this Ordinance. Notwithstanding the foregoing, nothing in this Ordinance shall prevent the City from studying or adopting an alternate method of payment of the multi-modal transportation impact fee (e.g. payment over time through special assessments).

Sec. 2-480 Calculation.

1. Upon receipt of a complete application for a building permit (or prior to the issuance of a site development permit where a building permit is not required) the City Manager or his designee shall calculate the applicable multi-modal transportation impact fee in accordance with this Ordinance, incorporating any applicable credits. If a person has received a credit pursuant to the terms of this Ordinance, that credit shall be subtracted from the otherwise applicable multi-modal transportation impact fee if such credit applies.
2. A person may request at any time a non-binding estimate of the multi-modal transportation impact fee due for a particular development, however, such estimate is subject to change applicable at the time when a complete application for a building permit or site development permit is actually made.
3. Multi-modal transportation impact fees shall be calculated as set forth herein based on the fees in effect at the time of the City's issuance of a building permit or site development permit, except where otherwise provided for in this Ordinance.

Sec. 2-481 Independent Multi-Modal Transportation Impact Fee Study.

1. Any person who deems that their land use is unique shall have the option to provide an independent fee study according to procedures set forth in the City's Multi-Modal Transportation Impact Fee Administrative Manual. The independent study is not intended to allow site specific review of uses or similar uses listed in the City's Fee Schedule, and such uses shall be subject to the City's Fee Schedule. Requests for independent multi-modal transportation impact fee study must be received no later than thirty (30) days after the issuance of a building permit. In the event that the City incurs costs for professional and/or consultant services related to professional evaluation of an independent fee study, the City shall charge such property owner and/or developer fees sufficient to recover the costs incurred by the City. If the independent fee study cannot be completed, reviewed, and finally determined by the City Manager or his designee, including any appeals, by the time the certificate of occupancy is issued, the applicant shall pay the

scheduled fee.

2. The City Manager or his designee shall be authorized to accept or reject any independent fee calculation not meeting the criteria for an independent multi-modal transportation impact fee study identified in a Multi-Modal Transportation Impact Fee Administrative Manual which shall be adopted by resolution of the City Commission.. The independent multi-modal transportation impact fee study shall follow the procedures set forth therein.

Sec. 2-482 Exemptions and Credits.

1. The following shall be exempted from payment of the multi-modal transportation impact fee:

- (a) Alterations or expansion of an existing dwelling unit where no additional units are created, where the use is not changed, and where no additional vehicular trips will be produced over and above those produced by the existing use.

- (b) The construction of accessory buildings or structures which will not increase the traffic counts associated with the principal building or of the land.

- (c) The replacement of a building or structure with a new building or structure of the same size and use provided that the structures or buildings existed on or after January 24, 1989, and no additional trips will be produced over and above those produced by the original use of the land.

- (d) The construction of publicly-owned or leased governmental buildings.

2. Credits:

- (a) A person may be allowed by prior development agreement/development order to construct or convey right-of-way for a non-site related bridge, road, or pedestrian/bicycle facility listed in the capital improvement program which is in addition to his required site-related improvements as determined by the City Manager or his designee, and receive credits on a dollar basis against any transportation impact fee due.

- (i) Eligibility: Projects eligible to receive transportation impact fee credit shall meet one of the following criteria:

- (1) The project must be identified in the City's Capital Improvement Plan (CIP); or

- (2) The project must be identified in the Cost Feasible Plan for construction; or

(3) The project must be identified in Pasco County's Needs Plan for right-of-way; or

(4) The project must be identified in a City Commission approved roadway or pedestrian/bicycle plan.

(ii) Payment: Payment of multi-modal transportation impact fee credit shall be issued for projects identified in the City's CIP schedule as follows:

(1) Construction: Construction projects eligible to receive multi-modal transportation impact fee credit shall be identified in the Cost Feasible Plan. Payment of credit shall be issued for projects identified in the City's CIP schedule. If a person elects or is required to construct multi-modal transportation facilities, the developer shall submit the proposed construction along with a certified cost estimate to the City Manager or his designee. The City Manager or his designee shall determine if the proposed construction is an appropriate substitute for the multi-modal transportation impact fee, the amount of credit to be given, and the timetable for the credit and construction. However, if a person elects to build and the City Manager or his designee approves construction of an improvement other than that scheduled in the current year CIP, the person shall not receive credits until the year the improvement is scheduled for construction by the appropriate governmental entity.

(2) Right-Of-Way Dedication: Right-of-way conveyance eligible to receive multi-modal transportation impact fee credit shall be identified in one of the Plans set forth in Subparagraph (2) (i) above. Payment of credit shall also be issued for projects identified in the City's CIP schedule. If a person elects to convey excess right-of-way and the City Manager or his designee approves acceptance of that right-of-way other than that which is scheduled in the current year CIP, the person shall not receive credits until the year the right-of-way acquisition phase is scheduled by the appropriate governmental entity. The amount of any such credits for right-of-way conveyance shall be determined according to Paragraph (2) (a)(iii) below.

(3) Application for Credits or Appeal: Application for credits or appeal from a decision by the City Manager or his designee shall be made prior to the commencement of construction or conveyance of

right-of-way. No credits will be granted for construction or right-of-way conveyance except under the terms of a City Commission approved agreement.

(iii) Credit Amount: The amount of the right-of-way credit shall be 115% of the assessed value of the conveyed right-of-way as determined by the Pasco County Property Appraiser. The amount of the credit shall be established in a written agreement or development order between the person donating the right-of-way and the City Commission. The date of valuation shall be the date of conveyance of the right-of-way unless the person and the City Manager or his designee agree to another date of valuation.

(iv) Additional Credit Provisions: A credit against any multi-modal transportation impact fee due shall be given for the replacement of any building, structure, or use with a new building, structure, or use, provided that the replaced building, structure, or use originally existed on or after January 24, 1989, and provided further that such credit shall be given only to the extent of the amount of the [multi-modal] transportation impact fee that would have been imposed upon such replaced building, structure, or use.

(1) Credits may be transferred within the impact fee zone, provided, however, that the transfer to another property shall not be permitted until the development for which the credit was initially established has been completely built out in accordance with City development approvals.

(2) Any credit will be issued to the person who paid for or financed the construction of the transportation facility or who donated the right-of-way for which the credit was established, or his successor or assign.

Sec. 2-483 Payment/Collection.

1. Except as otherwise provided in this Ordinance, a person shall pay the multi-modal transportation impact fees as set forth herein, unless, and only to the extent that:

(a) The person is determined to be entitled to a credit pursuant to Section 2-482 above; or

(b) The person is determined to not be subject to the payment of multi-modal transportation impact fees pursuant to Section 2-482.

2. The City Manager or his designee shall collect the multi-modal transportation

impact fee prior to the issuance of a certificate of occupancy. Where a certificate of occupancy is not required, the multi-modal transportation impact fee shall be due upon the issuance of a development permit authorizing commencement of the development activity generating new traffic and payable upon Final Inspection.

3. Multi-modal transportation impact fees collected by the City shall account for the revenues and expenditures of these impact fees in a separate accounting fund .
4. The payment of the multi-modal transportation impact fee shall be in addition to all other fees, impact fees, charges, or assessments due for the issuance of a building permit, a site development permit, a certificate of occupancy, or a Final Inspection.
5. The obligation for payment of the multi-modal transportation impact fee shall run with the land.
6. In any action challenging an impact fee, the government has the burden of providing by a preponderance of the evidence that the imposition or amount of the fee meets the requirements of state legal precedent or Section 163.31801, Florida Statutes.

Sec. 2-484 City Enforcement.

The City Manager or his designee is specifically authorized to take any and all steps and actions that are legally available to the City, including any court proceedings as are authorized by law, against any person who fails, neglects or refuses to pay a multi-modal transportation impact fee as required by this Ordinance. Knowingly furnishing false information to the City Manager or other official in charge of the administration of this Ordinance on any matter relating to the administration of this Ordinance shall constitute a violation of this Ordinance, and shall be considered a Class VI violation. Each act in violation of this Ordinance shall be considered a separate violation for the purpose of assessing penalties. Payment of any penalties imposed shall not release a person or entity from payment of the multi-modal transportation impact fee due, but shall be in addition to the transportation impact fee. A violation of this Ordinance shall be punishable according to law; however, in addition to or in lieu of any criminal prosecution, the City shall have the power to sue in civil court to enforce the provisions of this Ordinance.

Sec.2-485 Appeals.

1. A person who is required to pay a multi-modal transportation impact fee pursuant to this Ordinance shall have the right to request an appeal hearing before the City Commission.
2. Such appeal hearing shall be limited to the review of the following:

(a) Denial of independent multi-modal transportation impact fee study calculation, pursuant to Section 2-481 above.

(b) With regard to an exemption or credit, a determination made by the City Manager or his designee pursuant to Section 2-482 above.

3. Except as otherwise provided in this Ordinance, a person shall request such appeal hearing in writing within thirty (30) days of the denial of an independent fee study calculation or denial of an exemption or credit, whichever is applicable.

4. Failure to request an appeal hearing within the time provided shall be deemed a waiver of such right.

5. The request for an appeal hearing shall be filed with the Commission through the City Manager or his designee. All requests shall include the following:

(a) The name and address of the applicant or successor in interest; and

(b) The legal description of the property in question; and

(c) If paid, the date the multi-modal transportation impact fee was paid with the original receipt or canceled check or other appropriate proof of payment; and

(d) A written statement of the reasons why the hearing is requested which must be supported by documentation and exhibits as to why the multi-modal transportation impact fee should not be paid; and

(e) A filing fee of \$250.00 or as amended by resolution by the Commission from time to time.

6. Upon receipt of such request, the City Manager or his designee shall schedule an appeal hearing before the Commission at a regularly scheduled meeting and shall provide the person written notice of the time and place of the hearing. The appeal hearing shall not be a public hearing, but shall be held within sixty (60) days of the date that the request for such hearing was properly filed.

7. Such hearing shall be conducted in a manner designed to obtain all information and evidence relevant to the requested hearing. Formal rules of civil procedure and evidence shall not be applicable; however, the appeal hearing shall be conducted in a fair and impartial manner with each interested party having an opportunity to be heard and to present information and evidence. The Commission shall make known its determination at the conclusion of the hearing.

Sec. 2-486 Multi-Modal Transportation Impact Fee Fund.

1. There is hereby established a separate special revenue fund for multi-modal transportation impact fees pursuant to Section 163.31801, Florida Statutes.

2. Funds may be withdrawn from this special revenue fund for use solely in accordance with the provisions of Section 2-487 below; provided that the disbursal of such funds shall require the approval of the City Commission, after recommendation of the City Manager or his designee.

Sec. 2-487 Appropriation of Multi-Modal Transportation Impact Fee Funds.

1. In general, multi-modal transportation impact fees shall be appropriated for transportation facilities necessitated by new development and for the payment of principal, interest, and other financing costs on contracts, bonds, notes, or other obligations issued by or on behalf of the City to finance such transportation facilities. Such projects may also be or include stand-alone pedestrian and/or bicycle facilities.
2. Multi-modal transportation impact fee monies shall only be expended for projects within the City limits or as otherwise agreed to as a joint project with Pasco County and/or FDOT.
3. The multi-modal transportation impact fees fund shall be used by the City solely to provide transportation facilities which are necessitated by new development within the City, consistent with and as set forth in Paragraph (4)(g) below, and shall not be used for any expenditure that would be classified as an operating expense, routine maintenance or repair expense. The City's Finance Director shall establish and implement necessary accounting controls to ensure that all transportation impact fees are properly deposited, accounted for, and appropriated in accordance with this Ordinance, Section 163.31801, Florida Statutes, and any other applicable legal requirements.
4. The funds collected by reason of the establishment of a multi-modal transportation impact fee in accordance with this Ordinance shall be used solely for the purpose of construction or improving roads, streets, highways, and bridges on the major road network system and/or stand-alone pedestrian and/or bicycle facilities including but not limited to:
 - a. Design, permits, route studies, and construction plan preparation;
 - b. Right-of-way acquisition and related costs;
 - c. Construction of through lanes;
 - d. Construction of turn lanes;
 - e. Construction of bridges;
 - f. Construction of drainage facilities and mitigation areas in conjunction with roadway construction;
 - g. Design, purchase and installation of traffic signalization;
 - h. Construction of roads, curbs, medians and shoulders;

- 1. Relocating utilities to accommodate roadway construction;
- J. Any other amenities usually associated with the construction of transportation facilities.
- k. Technical review costs for the purposes of updating this Ordinance;
and
- l. Construction of stand-alone bicycle or pedestrian trails, lanes, or pathways.
- m. Utility relocation
- n. Inspection of constructed facilities, utilities and drainage.

5. Additionally, multi-modal transportation impact fee fund monies may be used for the following:

- (a) Repayment of monies borrowed from any budgetary fund of the City subsequent to the effective date of this Ordinance, where such borrowed monies were used to fund growth necessitated capital improvements to transportation facilities as provided herein;
- (b) Payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the City to fund growth-necessitated improvements to transportation facilities subsequent to the effective date of this Ordinance, or unless expressly required by a prior development approval or development agreement with the City.

Sec.2-490 Provisions, Inclusion in Code, Severability.

- 1. The provisions of this Ordinance shall be liberally construed to effectively carry out its purpose in the interest of the public health, safety, welfare, and convenience.
- 2. It is declared to be the intent of the City Commission of Dade City, Florida, that if any section, subsection, sentence, clause or provision of this Ordinance shall be declared invalid by a court of competent jurisdiction, the remainder of this Ordinance shall be construed as not having contained said section, subsection, sentence, clause or provision, and shall not be affected by such holding.
- 3. Any subsequently issued certificate of occupancy for new development for which the fee required under this Ordinance has not been paid shall be void.
- 4. Procedures for preparation of an independent fee calculation and other procedures for implementation of this Ordinance shall be set forth in the Multi-Modal Transportation Impact Fee Manual which shall be separately adopted by resolution of the City Commission.

SECTION 2. Repealer.

Dade City Ordinance No. 2006-0935 as subsequently amended, is hereby repealed in its entirety.

SECTION 3. Effective Date. This ordinance shall take effect ninety (90) days from the date of its adoption by the City Commission.

SECTION 4. Codification. It is the intent of the City Commission that the provisions of this Ordinance shall become and be made a part of the Dade City Code of Ordinances, and that the sections of this Ordinance may be renumbered or re-lettered and the word “ordinance” may be changed to “section,” “article,” “regulation,” or such other appropriate word or phrase in order to accomplish such intentions.

ADOPTED BY THE CITY COMMISSION after first reading on January 26, 2016, and following public hearings on February 9, 2016 and February 23, 2016.

ATTEST:

CITY OF DADE CITY

Angelia Guy, City Clerk

Camille S. Hernandez, Mayor

Approved as to Legal Form and Sufficiency
