ORDINANCE NO. 2022-01

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING THE CODE OF ORDINANCES CHAPTER 21, ARTICLE I AND ARTICLE II, CREATING ARTICLE III, TO BE ENTITLED "MOBILITY PLAN AND MOBILITY FEES"; PROVIDING FOR AUTHORITY; SETTING FORTH GENERAL PROVISIONS FOR MOBILITY FEES, DEFINITIONS, PURPOSE, THE MOBILITY PLAN AND MOBILITY FEE TECHNICAL REPORT, AND RULES OF CONSTRUCTION; PROVIDING FOR IMPOSITION AND A MOBILITY FEE SCHEDULE; PROVIDING FOR THE PROCESS FOR REVIEW OF ALTERNATIVE & SPECIAL FEE DETERMINATIONS, CREDITS, ESTABLISHMENT OF MOBILITY FEE BENEFIT DISTRICTS, FUND ACCOUNTS, EXPENDITURES, REFUNDS, EFFECTS ON LAND DEVELOPMENT REGULATIONS, DEVELOPMENT OF AN ADMINISTRATIVE MANUAL AND SERVICE CHARGES, REQUIREMENTS FOR ANNUAL REPORTING, REVIEW AND UPDATES, AGREEMENTS, INTERLOCAL AGREEMENTS, VESTED RIGHTS, APPEALS AND PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR SCRIVENER'S ERRORS; PROVIDING FOR LIBERAL INTERPRETATION; PROVIDING FOR MODIFICATIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section (2) of the Florida Constitution and Chapter 166, Florida Statutes, the City has broad home rule powers to adopt ordinances to provide for and operate multimodal transportation systems, including bicycle lanes, greenways, shared-use paths, sidewalks, trails, micromobility facilities, microtransit transit facilities, services and programs, roadways, intersections, shared mobility services, programs, and technology within the City; and

WHEREAS, Section 163.3180(5)(f), Florida Statutes, encourages local governments (including municipalities such as the City) to develop tools and techniques including adoption of long-term strategies to facilitate development patterns that support multimodal solutions, adoption of area wide service standards that are not dependent on any single road segment function, and establish multimodal service standards that rely primarily on non-vehicular modes of transportation where existing or planned community design will provide an adequate level of personal mobility; and

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

WHEREAS, the City desires to adopt a mobility fee system, based on the multimodal projects included in a mobility plan, as an alternative mobility funding system consistent with Section 163.3180(5)(i), Florida Statutes; and

WHEREAS, the City intends to repeal and replace the transportation concurrency system language in the land development code with a mobility fee system consistent with the requirements of Section 163.3180(5)(i), Florida Statutes; and

WHEREAS, the mobility fee system focuses on person travel demand, which includes walking, biking, transit, and motor vehicular trips, generated by new development activity, as defined in this ordinance, and the resulting impact on multimodal capacity and accordingly requires the expenditure of revenue derived under that system to be used on multimodal projects identified in an adopted mobility plan that increase multimodal capacity; and

WHEREAS, the mobility fee system includes, but is not limited to, considerations of the impact of person travel demand generated by new development and redevelopment on multimodal capacity as well as considerations of the impact of new development on overall mobility within the City; and

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

WHEREAS, imposition of a mobility fee requiring future growth within the City to contribute its fair share of the cost of growth-necessitated multimodal facilities is necessary and reasonably related to the public health, safety, and welfare of the people of the City; provided that the mobility fee does not exceed the actual amount necessary to offset the demand on multimodal capacity and facilities generated by new development activity; and

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

WHEREAS, the City Commission of the City (the "City Commission") finds that this Ordinance supports and furthers the goals, objectives and policies of the Transportation and Mobility Element of the Comprehensive Plan as follows:

- OVERALL GOAL "The city will encourage accessible, energy efficient, sustainable and economically viable transportation options that meet the needs of residents, employers, employees and visitors through a variety of innovative methods that are sensitive to the environmental, historical, and cultural resources of the city of St. Augustine;"

- TME GOAL 1 TRANSPORTATION "To maintain a coordinated multimodal transportation system which provides for the safe, efficient, and economical movement of people, goods, and services, which is consistent with the Future Land Use Plan, recognizes the impact resulting from sea level rise and higher, more intense rainfall, conserves energy, and protects the City's natural, cultural, and historical resources;"

- TME Objective 1.1 "The City shall provide a safe, convenient and efficient motorized and nonmotorized transportation system;"

- TME GOAL 2 MOBILITY "Establish a coordinated multimodal transportation system that provides mobility for pedestrians, bicyclists, circulator and transit users, motorized vehicle users, rail and trail users, and is sensitive to the City of St. Augustine's natural, cultural, and historical resources;"

- TME Objective 2.1 "The City shall provide a safe, convenient, connected, visible, and efficient multimodal transportation system. The measurable targets for this objective are based upon the establishment of multimodal quality of service standards for people walking, bicycling, riding transit, and driving;"

- TME GOAL 3 MOBILITY PLANNING "To enhance the quality of life for City residents and reduce congestion by (1) making it safer and more convenient for people to walk and bicycle, (2) creating a park once environment within the multimodal district for longer duration visits, and (3) developing innovative parking management strategies that improve access to local businesses and reduce the impact of non-city resident traffic on residential streets;"

- TME Objective 3.1 "To develop and implement a 2040 Mobility Plan focused on the movement of people, the provision of multiple multimodal transportation options to move about the community, the pursuit of a park once environment for travel within the City's multimodal district for longer duration visits, and the development of a Mobility Fee, based upon the projects identified in the Mobility Plan, that allows for new development and redevelopment to equitably mitigate its impact to the multimodal transportation system;"

- TME Policy 3.1.1 "The City will promote an interconnected, multimodal transportation system that transitions from a system focused on quickly moving motor vehicles toward

a system that emphasizes the movement of people of all ages and abilities, whether those people choose to walk, bicycle, ride transit, drive a motor vehicle or use a new transportation mobility technology;"

- TME Policy 3.1.2 "The Mobility Plan shall identify multimodal projects that include improvements, services, and programs for people walking, bicycling, riding transit, driving motor vehicles and utilizing new mobility technologies. The projects identified in the Mobility Plan shall be based upon existing demand and projected increases in personal travel demand by 2040, the mobility plan horizon year, from new development, redevelopment, tourism and the growing population in northeast Florida;"

- TME Policy 3.1.21 "A Mobility Fee is one source of revenue to fund the projects identified in the Mobility Plan. Gas, property and sales tax, CRA, County, State and Federal grants and funds, special assessments, higher education student fees, user fees, private party contributions, and parking revenues are all additional sources of revenue that are available to fund projects identified in the Mobility Plan. The City should consider opportunities to combine revenue sources, to the extent permissible, to advance the Mobility Plan, Complete Street, safety and parking management multimodal projects;"

- TME Policy 3.1.22 "The Mobility Plan projects shall serve as the basis for development of a mobility fee. The Mobility Fee shall be a one-time assessment on new development or redevelopment that results in an increase in person travel demand. The Mobility Fee shall be required to meet the dual rational nexus test and shall be reasonably attributable to the person travel demand of new development, infill and redevelopment. Multimodal capacities based upon quality-of-service standards shall be established to ensure fees are reasonably assignable to the impacts of new development or redevelopment;"

- TME Policy 3.1.23 "The Mobility Fee, consistent with Florida Statute, is intended to replace transportation concurrency and proportionate fair-share contributions and would be provided in place of a road impact fee;"

- TME Policy 3.1.24 "The Mobility Fee may include provisions to encourage and incentivize new development, infill and redevelopment within the multimodal district and targeted areas of the City. The Mobility Fee may also include provisions to encourage affordable, workforce housing, mixed-use, multimodal supportive development and desired land uses that increase employment and attract economic development consistent with Florida Statutes;"

- TME Policy 3.1.25 "The Mobility Plan and Fee shall be re-evaluated and updated every five years. The Mobility Fee shall be indexed and adjusted for inflation on an annual basis;" and

WHEREAS, the mobility fees imposed hereby (1) are in compliance with the "dual rational nexus test" developed under Florida case law, (2) meet the "essential nexus" and "rough proportionality" requirements established by the United States Supreme Court, in Nollan v. California Coastal Commission, 483 U.S. 825 (1987) and Dolan v. City of Tigard, 512 U.S. 374 (1994), (3) are consistent with the requirements set forth in Section 163.3180, Florida Statutes, and (4) are consistent with and being imposed in accordance with Section 163.31801, Florida Statutes; and

WHEREAS, the City Commission has determined that the proposed Ordinance adopting a mobility fee will help to preserve and enhance the rational nexus between the need for multimodal person travel demands generated by new development activity in the City and the mobility fees imposed on that new development activity based on the multimodal improvements established in the mobility plan; and

WHEREAS, establishment of a mobility fee benefit district regulates mobility fee expenditures and is the best method of ensuring that the multimodal projects funded by mobility fees have the rational nexus and benefit to the development for which the mobility fees were paid; and

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

WHEREAS, mobility fees imposed hereunder achieve the goals, objectives and policies of the Comprehensive Plan and utilize the tools and techniques encouraged by Section 163.31801, Florida Statutes; and

WHEREAS, the City has developed a Mobility Plan and Mobility Fee Technical Report dated February 2022 prepared by NUE Urban Concepts, LLC, that provides the technical analysis to determine the mobility fee, based on the multimodal improvements on City, County, and State right-of-way within and adjacent to the City identified in the mobility plan, which constitutes a proper factual predicate for imposition and expenditure of the mobility fees; and

WHEREAS, the City has determined that the enactment of this Ordinance adopting a mobility plan and mobility fee will help to preserve and enhance the rational nexus between the extraordinary increase in multimodal person travel demands generated by new development activity in the City, and the mobility fees imposed on that new development activity to fund multimodal improvements on City, County, and State right-of-way within and adjacent to the City in the mobility plan that address that demand; and

WHEREAS, the City Commission has determined, based upon project development time frames which are often delayed depending upon economic realities, to authorize the refund of collected mobility fees after seven (7) years; and

WHEREAS, the City shall assess an administrative service charge and may establish fees, based upon a Technical Report accepted by the City Commission, associated with request for mobility fee determinations, special assessments and studies, off-sets and credits, and the administration and implementation, including amendments and updates, to the mobility plan and the mobility fee system, not to exceed actual cost consistent with Section 163.31801, Florida Statutes; and

WHEREAS, the City shall develop policies and procedures, based upon administrative procedures accepted by the City Commission, for the administration, implementation, and update of the mobility plan and mobility fee to include, but not limited to, assessments, credits, determinations, imposition, off-sets, and studies; and

WHEREAS, the mobility fee shall be adjusted annually, based on the most recently published construction cost inflation factor index established by the Florida Department of Transportation, or the Consumer Price Index should the Florida Department of Transportation cease to publish said index, and the City shall publish the adjusted mobility fees, not more than 90 calendar days before the annual adjustment, consistent with Florida Statute Section 163.31801; and

WHEREAS, the City Commission has noticed, advertised, scheduled and held a public hearing in compliance with Florida Statutes on this proposed Ordinance; and

WHEREAS, the City Commission has determined that it is advisable and in the public interest to adopt and implement the proposed Mobility Plan and Mobility Fee Ordinance.

WHEREAS, notice of the effective date of this ordinance was provided to the public consistent with Chapters 166.041 and 163.31801, Florida Statutes, and was published in the St. Augustine Record on February 15, 2022.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION FOR THE CITY OF ST. AUGUSTINE, FLORIDA, AS FOLLOWS:

SECTION 1. Chapter 21, Article I and Article II. Chapter 21, Article I and Article II of the Code of the City of St. Augustine are amended as follows: [Note: ~~strikethrough~~ language deleted, underline language added]:

"Sec. 21-3. - Opting out of imposing or collecting St. Johns County impact fees.

The City of St. Augustine hereby opts out of imposing impact fees or collecting impact fees adopted by the County of St. Johns, Florida, except educational facilities impact fees collected pursuant to interlocal agreement between St. Johns County School Board, St. Johns County and the City of St. Augustine. No impact fee adopted by the County of St. Johns, Florida, shall be applicable or collected within the jurisdictional limits of the City of St. Augustine except as stated herein. The concurrency management ordinance adopted by the City of St. Augustine shall ensure the availability of public facilities and services as it applies to certain services. The City of St. Augustine may from time to time adopt mobility fees, or other fees to capture the cost of providing services to new development, redevelopment, or intensification of existing development, as allowed by law."

"Sec. 21-27. - Definitions.

…

Development order means the approval action for a development and shall include:

(1) *Final development order* means the final approval action for a development, including a building permit, or where such action is not required for final approval, a final subdivision plan, a final development plan for a planned unit development (PUD), final construction plans for a site and development plan, or a use permit/certificate of occupancy not linked to a building permit.

(2) *Preliminary development order* means approval action required before a final development order may be considered and includes preliminary subdivision plans, approved ordinances creating planned unit developments (PUD's), exceptions, variances, conservation overlay zone development, rezonings, land use plan amendments, certificates or opinion of appropriateness, site plan approval, use permit applications without a certificate of occupancy, building plan approval, utility availability letter and storm drainage approval. Applications for concurrency determination will be required for certain preliminary development orders, including rezonings, land use plan amendments, exceptions, variances, preliminary development

plans for a PUD, preliminary plats for a subdivision and any development requiring special review by the planning and zoning board as outlined in chapter 28.

…

Public facilities means major capital improvements including ~~transportation,~~ sanitary sewer, solid waste, drainage, potable water, and parkland facilities and services.

…"

"Sec. 21-28. - Intent and purpose.

This article is intended to implement the requirements of ~~F.A.C. rule 9J-5.0055~~ concurrency management as outlined in Chapter 163 F.S. to insure that issuance of a final development order will not result in a degradation of the adopted levels of service for specified public facilities and services adopted in the comprehensive plan pertaining to wastewater, potable water, solid waste, drainage, and parkland. ~~traffic circulation~~. Concurrency for traffic circulation has been repealed through the alternative mobility funding system provisions of Chapter 163 F.S., deleted within this article, and replaced by a mobility plan and mobility fee to be paid to the City in accordance with the creation of Article III, Mobility Plan and Mobility Fees in this Chapter. Nothing herein is intended to repeal other access management or site improvement requirements adopted pursuant to law."

"Sec. 21-30. - Same—Applications.

Applications for determination of exemption pursuant to section 21-29 shall be filed with the director of the planning and building department. Determinations thereon may be made by the director of the planning and building department and the director(s) of the public works and utilities department(s). Denials of exemptions shall be subject to appeal to the city commission in the same manner and pursuant to the same procedures as denials of applications for exceptions to chapter 28 on appeal to the city commission from the decisions of the planning and zoning board."

"Sec. 21-34. - Applications for development orders.

Development orders shall be filed with the planning and building department which shall be responsible for coordination with other departments of the city for evaluation of the adequacy of existing and planned facilities. The public works and utilities department(s) shall evaluate drainage, potable water, sanitary sewer and solid waste levels of service. The planning and building department shall evaluate parkland levels of service. ~~and shall in conjunction with the public works department, evaluate roadway levels of service~~ Concurrency determinations will be required for all developments before a final development order is issued, except those specifically exempt from the requirements of this article. As to developments which require phasing, a concurrency determination application will be required for the entire project; provided, however, that concurrency may be reserved only for each phase of development with reservation of future concurrency only upon substantial completion of prior phases. Applications for concurrency

determination will be required for certain preliminary development orders, including rezonings, land use plan amendments, exceptions, variances, preliminary development plans for a PUD, preliminary plats for a subdivision, and any development requiring special review by the planning and zoning board as outlined in chapter 28. However, concurrency will not be reserved, and therefore, a final development order will not be issued, until all required utility fees are paid, or if utility fees are not applicable, when required building permit fees are paid.**"**

"Sec. 21-36. - Determination of facility capacity.

Based upon ~~F.A.C. rule 9J-5.0055~~ concurrency management standards for the purpose of evaluating development orders, the available capacity of a facility shall be determined as follows:

(1) Adding together the following:

a. The total capacity of existing facilities operating at the adopted levels of service; and

b. The total capacity of new facilities, if any, that will become available concurrent with the impacts of the development.

(2) Subtracting from the total capacity the sum of the following:

a. The demand for the facilities created by existing development;

b. The demand for facilities created by the anticipated completion of other approved developments for which concurrency reserves have been approved; and

c. The demand for the facilities created by the anticipated completion of the proposed development under consideration for the concurrency determination.**"**

"Sec. 21-37. - Determination of levels of service standards.

(a) *Roadways.*

Roadway level of service has been repealed and replaced by street quality of service standards and multimodal quality of service standards for walking, bicycling, and transit as further defined in the Transportation and Mobility Element of the Comprehensive Plan, and adopted by a mobility plan and mobility fee to be paid to the City in accordance with the creation of Article III, Mobility Plan and Mobility Fees in this Chapter.**"**

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~~(1) *Level of service standards.* The minimum acceptable level of service for city, county and state roadways within the city limits shall be determined consistent with the Policy Statement and Standards on Operating Level of Service Standards for the State Highway System, Topic No. 525-000-005-a, Florida Department of Transportation, Haydon Burns Building, 605 Suwanee Street, Tallahassee, Florida 32399-0450, and the Highway Capacity Manual (Special Report No. 209, 1985) Transportation Research Board, National Research Council, 2101 Constitution Avenue, N.W., Washington, D.C. 20418 and will be based on the peak hour level of service (LOS) standards outlined below:~~

Facility	Peak Hour
Local road	D
Collector	D
Minor arterial	E
Principal arterial	D
Limited access	D

For roadways operating in a backlogged condition as of October 1, 1991, a peak hour traffic volume that extends the 1991 peak hour volume for that roadway by no more than ten (10) percent shall be a minimal acceptable traffic operating condition;

For roadways operating in a constrained condition as of October 1, 1991, a peak hour traffic volume that exceeds the 1991 peak hour volume for that roadway by no more than eleven and one-half (11½) percent shall be a minimal acceptable traffic operating condition; and

For roadways operating in a constrained condition located within a national register or local historic preservation district as of October 1, 1991, a peak hour traffic volume that exceeds the 1991 peak hour volume for that roadway by no more than fifteen and one-half (15½) percent shall be a minimal acceptable traffic operating condition.

(2) *Review of impact on roads.* All development orders must be reviewed for their impact on the functionally classified roadway network.

(3) *Database.* The city will maintain a database indicating the current annual average daily traffic counts, peak hour volumes and levels of service for functionally classified roadways, and will update this database annually. This database will be used to monitor the impact of development on the roadway network inside the city limits.

(4) *Impact determination.*

a. The city will determine the impact of development providing less than or equal to two hundred fifty (250) new daily trips to the functionally classified roadway network.

b. For developments generating fifteen (15) or less new daily trips, there is no transportation impact area.

c. For developments generating between sixteen (16) and two hundred fifty (250) new daily trips, the transportation impact area includes the roadway segments to the nearest major intersection. Table 1 shall be utilized to determine the development's trip generation. Passerby capture rates are incorporated into Table 1. The development daily trips will be distributed and assigned to the nearest major intersections.

d. For all developments located in national register and local historic preservation districts, thirty (30) percent of new development trips shall be considered to be by transportation modes other than automobile. New development trips by transportation modes other than automobile for developments outside these districts is negligible. The peak hour development trips will be determined through application of the peak to daily traffic ratio for the roadway segment.

~~(5) *Required submittals.*~~

~~a. The applicant for a development generating between two hundred fifty-one (251) and one thousand (1,000) new daily trips shall have an engineer or planner with responsible transportation planning experience prepare a limited transportation impact analysis. City data shall be used when available.~~

~~b. The applicant shall provide a description of proposed development including location, size, land use types, and other pertinent data as required by the planning and building department.~~

~~c. The transportation impact area in the analysis will be all functionally classified roadway segments and major intersections where the daily development traffic exceeds one hundred (100) trips. Table 1 shall be utilized by the applicant to determine the development's trip generation. Passerby capture rates are incorporated into Table 1. No additional passerby capture will be accepted without a detailed documented study utilizing primary data for similar land use types within the state. The applicant shall provide a map documenting the development's trip distribution on the functionally classified roadway network.~~

~~d. For all developments located in national register and local historic preservation districts, thirty (30) percent of new development trips shall be considered to be by transportation modes other than automobile. For all developments located in national register and local historic preservation districts, a different percentage of new development trips by other than automobile may be utilized if documented primary data from similarly located land use types within the city is provided. New development trips by transportation modes other than automobile is negligible for developments located outside national register and local historic preservation districts.~~

~~e. The applicant shall provide a map documenting the daily and peak hour development trip assignment on the functionally classified roadway network. The applicant shall develop the peak hour development trip assignment for each impacted functionally classified roadway segment through application of the peak hour to daily traffic ratio for each roadway segment. For all impacted intersections, peak hour turning movement counts for a typical weekday shall be documented. For each impacted intersection, the 1985 Highway Capacity Manual intersection capacity methodology shall be performed for the development year both with and without the development traffic.~~

~~f. Documentation of available or unavailable roadway capacity for all impacted functionally classified roadway segments in all development years shall be submitted. If roadway capacity is unavailable on any functionally classified roadway segment, alternative improvements required to accommodate new development trips shall be submitted. These alternatives may include transportation system management, highway and other modal improvements.~~

~~(6) *Transportation impact analysis.*~~

~~a. The applicant for a development generating over one thousand (1,000) new daily trips shall have an engineer or planner with responsible transportation planning experience prepare a transportation impact analysis. City data shall be used when available. The applicant will attend a preapplication conference to determine the~~

~~scope of the required transportation impact analysis for the proposed development. Information required by the city is discussed in the following paragraphs; however, items may be added, deleted, or modified as an outcome of the preapplication conference:~~

~~1. The applicant shall provide a description of proposed development including location, size, land use types, and other pertinent data as required by the planning and building department.~~

~~2. The applicant shall provide an inventory of existing roadway conditions for all functionally classified roadways within the transportation impact area, defined as all functionally classified roadway segments and major intersections where the development traffic exceeds ten (10) percent of the peak hour level of service D for that roadway segment. This inventory shall include roadway characteristics, current operating conditions and levels of service.~~

~~3. The applicant shall provide an inventory of future roadway conditions for appropriate development years for all functionally classified roadway segments within the transportation impact area which includes roadway characteristics, projected operating conditions and levels of service with and without development traffic.~~

~~4. The applicant shall prepare the development trip generation using Table 1. Passerby capture rates are incorporated into Table 1. No additional passerby capture shall be accepted without a detailed documented study utilizing primary data for similar land use types within the state.~~

~~5. The applicant shall prepare the development trip distribution and document the methodology. At a minimum, a map documenting the development's trip distribution on the functionally classified roadway network shall be included. Internal capture percentages will not be utilized without a detailed documented study utilizing primary data for similar land use types within the state.~~

~~6. The applicant shall prepare the development modal split. The potential for development traffic to utilize transportation modes other than the automobile shall be analyzed and documented. The actions to be taken by the developer to promote and/or provide alternative transportation modes (i.e., paratransit opportunities, bicycle paths, bicycle storage facilities, pedestrian facilities, etc.) shall be documented.~~

~~7. The applicant shall prepare the development trip assignment. The methodology utilized shall be documented. At a minimum, a map documenting the daily and peak hour development trip assignment on the functionally classified roadway network shall be included. The peak hour development trip assignment shall be developed utilizing the peak hour to daily traffic ratios for each impacted roadway segment.~~

~~8. The applicant shall prepare intersection analyses for all major intersections for the existing and all development years both with and without development traffic. Intersection analysis shall be performed for the peak hour periods 7:00~~

~~a.m. to 9:00 a.m., 11:00 a.m. to 2:00 p.m., and 4:00 p.m. to 6:00 p.m. for a typical weekday.~~

~~9. The applicant shall prepare the analysis of available or unavailable capacity for all impacted functionally classified roadways for all appropriate development years.~~

~~10. The applicant shall identify alternative improvements required to accommodate new development trips. These alternatives should include transportation system management, highway and other modal improvements. These alternatives shall be evaluated for their costs, consequences, and feasibility of implementation.~~

~~(7) *Deferrals.* In the event that roadway segments operate below the established level of service, development orders will be deferred only for those developments located within designated deferral areas. At a minimum, all development utilizing the roadway segment for direct site access and having more than a de minimis impact on the roadway segment will be included within the deferral area. The criteria to be considered when establishing deferral area boundaries will include spacing of parallel facilities, limits on access within the deferral area, trip distribution characteristics of development within the area, and type and intensity of land uses within the deferral area.~~

(b) *Parkland.*

(1) Levels of service standards are as follows:

a. Regional parkland, five (5) acres per one thousand (1,000) persons;

b. Community parkland, one (1) acre per one thousand (1,000) persons;

c. Neighborhood parkland, 0.8 acre per one thousand (1,000) persons.

(2) All residential development less than twenty-five (25) units must meet the open space requirements outlined within chapter 28.

(3) All residential development proposals of twenty-five (25) or more units must meet the open space requirements outlined within chapter 28 and must also indicate on the site plan, contiguous parkland or open space of at least that calculated using the neighborhood parkland level of service standard adopted in the comprehensive plan to serve the projected number of residents based on the latest census average persons per household ratio.

a. For residential development of twenty-five (25) to ninety-nine (99) units, the space must be furnished to serve at least passive recreational activity.

b. For residential development of one hundred (100) or more units, the space must be furnished with at least one (1) active recreational facility ~~(preferably one determined to be deficient in the particular planning sector)~~ and one (1) passive recreational facility, per one hundred (100) units.

(c) *Potable water.*

(1) Levels of service standards are as follows:

a. The city will provide a water system level of service consisting of a minimum of 156.9 gallons capacity per equivalent connection (i.e., an "average" single-family residence) per day at a minimum pressure of twenty (20) pounds per square inch.

(d) *Wastewater.*

(1) Levels of service standards are as follows:

a. The city will provide a sewer system level of service consisting of a minimum of ~~153.7~~ 220 gallons capacity per equivalent connection (i.e., an "average" single family residence) per day ~~and an average peak factor of 1.33~~.

(e) *Solid waste.*

(1) Levels of service standards are as follows:

a. The city establishes as its solid waste level of service, the ability to dispose of 6.75 pounds of solid waste per day per capita. ~~The city will continue to dispose of its solid waste at the county landfill facility.~~

(f) *Drainage.*

(1) Levels of service standards are as follows:

a. The city will implement its level of service standard for stormwater that is discharged from development as follows:

1. *Water quantity.* In the event of a twenty-five-year, twenty-four-hour storm, post-development runoff from the site of a major development shall not exceed peak predevelopment runoff rates. For minor developments, runoff from a ten-year, one-hour storm must be retained on site.

2. *Water quality.* Applicants must demonstrate compliance with the requirements of F.A.C. ch. 17.25. These standards shall apply to all new development and redevelopment regardless of project size.**"**

"~~Sec. 21-42. - Table 1, trip rate and percentage new trips data table, adopted.~~

~~Table 1 attached to Ord. No. 91-23, entitled "Table 1 – Trip Rate and Percentage New Trips Data Table" taken from the St. Johns County Traffic Impact Study, Methodology and Procedures and prepared by Tindale, Oliver and Associates is adopted by reference.~~**"**

SECTION 2. Creating Chapter 21, Article III. Chapter 21, Article III of the Code of the City of St. Augustine is hereby created as follows: [Note: ~~strikethrough~~ language deleted, underline language added]

ARTICLE III. - ~~RESERVED~~[2]] MOBILITY PLAN AND MOBILITY FEES

"Sec. 21-61. - Intent and purpose.

(a) Imposition. This article is intended to impose a mobility fee, assessed at building permit application and payable no later than issuance of a building permit, in an amount based

upon the average amount of new person travel demand attributable to new development and the average cost of providing the multimodal capacity needed to serve such new person travel demand. This article shall not be construed to authorize imposition of fees related to multimodal project needs attributable to existing development.

(b) *Replacement of transportation concurrency.* This article is intended to allow new development activity in compliance with the Comprehensive Plan to share in the burdens of growth. New development activity shares in this burden by paying a pro rata share of the reasonably anticipated costs of multimodal projects needed to accommodate the person travel demands created by new development activity as well as by complying with other appropriate development order conditions. This article is intended to provide flexibility to address the needs of individual developments that, because of location, timing, or other characteristics, require different treatment in the form of reduced fees or supplemental requirements.

(c) *Technical report.* Towards this end, mobility fees are based upon the calculation methodology incorporated in the "City of St. Augustine Mobility Plan and Mobility Fee Technical Report" February 2022, prepared by NUE Urban Concepts, LLC."

"Sec. 21-62. – Definitions.

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

Additive Fee means a mobility fee based on a unit of measure that is assessed for a component of a high impact use that is outside of the square footage of the building and generates person travel demand. Additive fees are combined with any assessed mobility fee based on the square footage of a building or structure for the use. The mobility fee rate for additive fees is based on the unique units of measure under the additive fee category.

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

Autonomous transit shuttle means a vehicle that uses artificial intelligence, sensors and global positioning system coordinates to drive itself with or without the active intervention of a human operator.

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

Benefit district means areas designated in the applicable mobility fee ordinance where fees paid by new development activity are expended.

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

Commercial and retail means those activities which provide for sale, lease, or rent of products, goods, services, entertainment, consumption, accommodations or use of space to individuals, businesses, or groups and which include those uses specified in the ITE Trip Generation Manual under Land Use Code Series 800 and 900, except for uses otherwise defined separately within the mobility fee schedule.

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

Community serving means those uses that are operated by non-profit civic originations, governmental entities, foundations, or fraternal organizations, including places of assembly. Community serving also includes uses such as YMCA, museum, art studio, gallery, cultural center, community meeting spaces, community theater, library, or a fraternal or masonic lodge or club, or any community and civic based uses that do not sell retail goods or services for profit and that participates in community and public activities. Food, beverages, goods, and services maybe offered for ancillary fundraising and sales to support the community serving use.

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

Free-standing retail means entertainment, personal service, and retail uses in a single building where any single use under common ownership exceeds 75% of the total square footage of the building. Land Use Codes under the 800 and 900 series and Land Use Codes 445.

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

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

Institutional uses means those public or quasi-public uses that serve one or more community's social, educational, health, cultural, and religious needs and which include those uses specified in the ITE Trip Generation Manual under the Land Use Code Series 500, and includes Land Use Codes 253, 254, 255, and 620. Land Use Codes 540 and 550 are included in office uses and 580 and 590 falls under Community Serving. Federal, state, and local government institutional uses, except for Community Development Districts, are exempt from payment of mobility fees, unless authorized by law.

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

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

Local retail means entertainment, restaurant, retail, sales, or services under ITE Land Use Codes 800 and 900 that are locally owned and are not national chains or national franchisee. Local shall be defined as five or fewer locations in Florida and no locations outside Florida. Local retail uses maybe located in multi-tenant or free-standing buildings. The City Commission may expand the definition of local in the administrative procedures to include retail uses founded or with headquarters in Clay, Duval, Flagler, or St. Johns Counties, along with other criteria for determining uses that would qualify as local retail.

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

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

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

Medical office means a building or buildings that provide medical, dental, or veterinary services and care. Medical office shall also include any clinics, emergency care uses, hospitals and any uses specified in the ITE Trip Generation Manual under Land Use Code Series 600, including Land Use Code 720. Land Use Code 620 is included under Long Term Care land uses.

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

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

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

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

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

Mobility plan means the plan adopted by the City of St. Augustine that identifies multimodal projects to meet the person miles of travel demands of new development activity.

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

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

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

Motor vehicle charging or fueling means the total number of vehicles that can be charged or fueled at one time (fueling positions). Increasingly, land uses such as superstores, (i.e., super Wal-Mart), variety stores, (i.e., Dollar General), and wholesale clubs (i.e., Costco) are also offering vehicle fueling with or with/out small convenience stores. Outside of Florida, several grocery store chains are also starting to sell fuel. The mobility fee rate per fueling position would be in addition to any mobility fee per square foot under the applicable retail land use with vehicle fueling. Motor vehicle charging stations that do not require a customer to pay for charging are exempt from payment of the mobility fee.

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

Multimodal projects mean improvements such as sidewalks, bike lanes, trails, paths, protected bike lanes, transit facilities, streetscape, landscape, roundabouts, raised medians, crosswalks, and high visibility crosswalks. Multimodal projects also include shared mobility programs and services, wayfinding, micromobility devices, programs and services, and microtransit vehicles and lanes. Improvements can include new or additional road travel lanes and turn lanes, complete and low speed streets, new or upgraded traffic signals, traffic synchronization, mobilization, maintenance of traffic, survey, geotechnical and engineering, utilities, construction, engineering and inspection, utility relocation, right-of-way, easements, stormwater facilities. Projects may also include the repayment of bonds, local match for federal, state and county funded projects, repayment of loans from the State of Florida Infrastructure Bank used to front-end the design and/or construction of multimodal projects.

Multimodal project expenses means expenditures for: (a) the repayment of principal and interest or any redemption premium for loans, advances, bonds, bond anticipation notes, and any other form of indebtedness then outstanding consistent with statutory allowances; (b) reasonable administrative and overhead expenses necessary or incidental to expanding and improving multimodal projects; (c) crosswalks, traffic control and crossing warning devices, landscape, trees, multimodal way finding, irrigation, hardscape, and lighting related to projects; (d) micromobility devices, programs and services, (e) transit circulators, facilities, programs, shuttles, services and vehicles; (f) reasonable expenses for engineering studies, stormwater reports, soil borings, tests, surveys, construction plans, and legal and other professional advice or financial analysis relating to projects; (g) the acquisition of right-of-way and easements for the improvements, including the costs incurred in connection with the exercise of eminent domain; (h) the clearance and preparation of any site, including the demolition of structures on the site and relocation of utilities; (i) floodplain compensation, wetland mitigation and stormwater management facilities; (j) all expenses incidental to or connected with the issuance, sale, redemption, retirement, or

purchase of bonds, bond anticipation notes, or other forms of indebtedness, including funding of any reserve, redemption, or other fund or account provided for in the ordinance or resolution authorizing such bonds, notes, or other form of indebtedness; (k) reasonable costs of design, engineering and construction, including mobilization, maintenance of traffic during construction and CEI (construction engineering and inspection) services of related projects, (l) city administration, implementation updates to the mobility plan and mobility fee, including any assessments, counts or studies needed for projects.

Multi-tenant retail means entertainment, restaurants, retail, sales, or services provided in a single building, with two (2) or more separate distinct uses under different corporate ownership where no single use exceeds 75% of the total square footage of the building. This includes land uses under ITE Land Use Codes Series under 800 and 900 and Land Use Codes 445.

New development activity means any new residential and commercial construction, any new land development or site preparation activity, any new construction of buildings or structures, any modification, reconstruction, redevelopment, or upgrade of buildings or structures, any change of use of a building, land, or structure, and any special exception approval or special use permit that results in an increase in person travel demand above the existing use of property.

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

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

Office uses means those businesses which provide professional services to individuals, businesses, or groups and which include those uses in the ITE Trip Generation Manual under Land Use Code Series 600 and 700 and includes Land Use Codes 540, 550, 911 and 912. Land Use Code 620 is included under institutional uses.

Off-site improvement means improvements located outside of the boundaries of the parcel proposed for development. Access improvements required to provide ingress and egress to the development parcel, which may include rights-of-way, easements, paving of adjacent or connecting roadways, turn lanes and deceleration/acceleration lanes, sidewalks, bike

lanes, trails, paths, transit stops along with required traffic control devices, signage, and markings, and drainage and utilities, shall be considered on-site improvements.

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

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

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

Person miles of travel (PMT) means the number of miles traveled by each person on a trip to account for all miles traveled by, but not limited to, motor vehicle, transit, walking, bicycling or some other form of person powered, electric powered or gasoline powered device.

Person travel demand (PTD) means travel demand from new development and redevelopment which results in an increase in travel above the existing use of property based on trip generation, pass-by trips, person trips, person trip lengths, and origin and destination factors for the uses established in the mobility fee schedule.

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

Pharmacy drive-thru means the drive-thru lanes associated with a pharmacy. The number of drive-thru lanes will be based on the number of lanes present when an individual places or pick-up a prescription or item. The fee per drive-thru is in addition to the retail fee per square foot for the pharmacy building.

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

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

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

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

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

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

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

Residential or lodging uses means a dwelling unit or room in overnight accommodations or mobile home or RV park and shall include those uses specified in the ITE Trip Generation Manual under the Land Use Code Series 200 and 300 and land use code 416. Land use codes 253, 254, and 255 are considered institutional uses.

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

Shell building means the foundational and structural elements that separate interior and exterior space and includes the roof, walls, windows, doors, mechanical systems, and rough plumbing and electric. Common areas are typically finished. Interior spaces are designed

to be finished by the tenant with wall coverings, ceiling, flooring, lighting, electrical and plumbing finishes, and furnishings. The floor may or may not be finished with concrete to allow for flexibility in the location of plumbing service lines.

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

Vehicle miles of travel (VMT) means a unit to measure vehicle travel made by a private motor vehicle, such as an automobile, van, pickup truck, or motorcycle where each mile traveled is counted as one vehicle mile regardless of the number of persons in the vehicle. VMT is calculated by multiplying the length of a road segment by the total number of vehicles on that road segment.

Vehicle trip means a trip by one person driving a motor vehicle or a motorcycle."

"Sec. 21-63. - Adoption of mobility plan and mobility fee technical report.

The mobility plan and mobility fee report entitled "City of St. Augustine Mobility Plan and Mobility Fee Technical Report dated February 2022," prepared by NUE Urban Concepts, LLC, is hereby adopted. This adoption includes, but is not limited to, the following: the multimodal projects included in the mobility plan, the basis of the assumptions, conclusions, and findings in such study as to the basis of the mobility fee, the methodology for calculating the mobility fee, the person miles of capacity assigned to multimodal capital improvements and the person travel demand assigned to various land use categories. The study presents the technical analysis and detailed methodology supporting the City of St. Augustine Mobility Fees consistent with the multimodal projects included in the 2040 City of St. Augustine Mobility Plan. The 2040 City of St. Augustine Mobility Plan consist of four (4) separate plans, a plan of multimodal projects for future consideration, and tables identifying specific multimodal projects reflected on the plans and multimodal projects consisting of services and programs not reflected on the plans, such as wayfinding programs and autonomous transit shuttles. The technical report shall be maintained and made available by the City upon request."

"Sec. 21-64. - Mobility fee imposition.

(a) Applicability. The mobility fee imposed by this section shall apply to new development activity that requires issuance of a building permit submitted on or after May 17, 2022.

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

a. Additions, remodeling, rehabilitation or other improvements to an existing structure, provided there is no increase in person travel demand and no increase in square footage for non-residential uses and no increase in the number of dwelling units for residential uses; or

b. Additions, remodeling, rehabilitation or other improvements to an existing structure, provided there is a demonstration the changes are needed to an existing residence to accommodate a mobility impaired person or home care that requires additional space to live or recover for medical reasons; or

c. Rebuilding of a damaged or destroyed structure, whether voluntary or involuntary, provided there is no increase in the intensity of use or no increase in square footage for non-residential uses and no increase in the number of rooms for residential uses; or

d. A change in occupancy that does not generate additional person travel demand or any increase in square footage for non-residential uses or increase in the number of rooms, excluding kitchens, bathrooms, laundry rooms, or utility rooms such as a mud room for residential uses.

e. Accessory buildings that do not result in an increase in person travel demand will be exempt from the fee (e.g. detached garage, sheds, parking structures, covered parking).

f. A federal, state, county, municipal, or governmental entity structure, except for non-governmental CDDs or Special Districts, unless otherwise permitted by Florida Statute. Public and charter schools for Pre-K to 12th Grade are exempt from mobility fees per Florida Statute; community colleges, colleges, and universities are not exempt.

(2) There is hereby imposed upon all new development activity, as herein defined, a mobility fee assessed at the time of building permit application and payable at the time of issuance of the building permit. No building permit shall be issued until said mobility fee has been paid except as otherwise herein provided. Mobility fees are assessed at the mobility fee rate in effect at the time of building permit application. If the permit is for less than the entire contemplated development, the fee shall be computed for the amount of development covered by the building permit. The obligations for payment of mobility fees shall run with the property.

a. Any developer, who, prior to the effective date for mobility fees, paid City proportionate share may be eligible for a pro-rata credit. Administrative procedures shall detail the requirements for a proportionate share credit agreement and said agreement shall be required prior to issuance or utilization of any credit. The credit shall also be adjusted to account for service charges, or payment of the service charges based on the amount of credit provided.

b. Additionally, the mobility fee will be imposed for any structure that is altered, expanded, or replaced that requires issuance of a building permit and results in an increase in person travel demand above the existing use of the property.

c. The mobility fee is calculated on the basis of the person travel demand generated from the land use. If the person travel demand increases due to a change in size or use, and a building permit is required the mobility fee due shall be the incremental difference resulting from the alteration, expansion, or replacement as determined by the mobility fee schedule, less the mobility fee that would be imposed under the applicable rate prior to the alteration, expansion, or replacement.

d. In the event that there is a change in use that results in a decrease in person travel demand generated by the previously allowed use, the applicant shall not be entitled to a refund or credit.

e. A structure or use of property that is inactive and has been abandoned for a period of more than three (3) years shall not be considered an existing or active use for purposes of calculating mobility fee off-sets. The mobility plan and mobility fee are to be updated every three (3) years and person travel demand is measured on a yearly basis. Therefore, person travel associated with the use is no longer captured in collected travel demand data which is used to plan for future needed mobility projects. The burden of demonstrating the existence of a use or structure shall be upon the fee payer where an off-set request is made.

f. For uses and structures considered to be active, any previous payment of proportionate share or mobility fees under this article may be credited against the appropriate mobility fees owed as a result of a change of use or reestablishing a use of land or structure that has been vacant but not considered abandoned.

g. Any request for credit or offsets of a mobility fee shall be made prior to submittal of a building permit application and shall be resolved prior to issuance of a building permit, unless otherwise stated in a written agreement per the applicant and the City per the requirements detailed in administrative procedures. Any off-sets or credits not so claimed shall be deemed waived by the fee payer.

h. Vacation rentals shall pay a mobility fee per bedroom, except for kitchens and bathrooms or unenclosed accessory spaces. The conversion of any existing residential use shall be required to pay the difference between a mobility fee based on the square footage of the home and the mobility fee based on the number of rooms for the vacation rental.

i. New development activity that does not initially require a building permit is encouraged to pay its mobility fee at the time of approval of the new development activity, as any future new development activity that requires a building permit shall be required to pay the mobility fee in effect at the time of building permit application, regardless of the time frame between approval of the new development activity and the application of a building permit.

j. New development activity may elect to pay its mobility fee prior to issuance of a building permit. If the mobility fee assessed at the time of building permit application is higher than the prepayment, new development activity will be required to pay the difference prior to issuance of a building permit. If the mobility fee assessed at the time of building permit application is lower than the prepayment, new development activity will be allowed to request a refund for the difference. No interest will be included with the refund. The refund request process is provided for in section 21-71 (c).

k. The mobility fee shall be paid in its entirety for any shell building space. The fee shall be based on the underlying land use for the building. Any use that will result in an increase in person travel demand above the current use of a shell space shall be required to pay the difference in mobility fees based on the mobility fee schedule in effect at the time of the request. Refunds shall not be issued for less intense uses as uses in the shell buildings change over time. The owner of the shell building shall be required to pay any mobility fees due to an increase in person travel demand, unless the owner includes a disclosure in a signed contract between the entity selling or leasing the space and the end user

where the end user acknowledges, in writing, that they are responsible for payment of mobility fees to the City.

(b) Mobility fee schedule. Any person who shall initiate any new development activity, except as otherwise provided for herein, shall pay a mobility fee, based on the applicable assessment area established in the mobility plan and mobility fee technical report, as set forth in the following mobility fee schedule:

MOBILITY FEE SCHEDULE

Use Categories, Land Uses Classifications, and Representative Land Uses	Mobility Fee
Residential & Lodging Uses per unit of measure	
Residential per sq. ft.	$1.05
Overnight Lodging (Bed & breakfast, Hotel, Inn, Motel, Vacation Rental) per room	$1,763
Mobile Residence (Mobile Home, Recreational Vehicle, Travel Trailer) per space or lot	$1,216
Institutional Uses per sq. ft.	
Community Serving (Civic, Place of Assembly, Museum, Gallery)	$0.86
Long Term Care (Assisted Living, Congregate Care Facility, Nursing Facility)	$0.87
Private Education (Day Care, Private Primary School, Pre-K)	$1.57
Recreational Uses per sq. ft., unless otherwise indicated	
Marina (Including dry storage) per berth	$370
Outdoor Commercial Recreation (Amusement, Golf, Multi-Purpose, Sports, Tennis) per acre	$1,873
Indoor Commercial Recreation (Gym, Indoor Sports, Kids Activities, Recreation)	$3.54
Industrial Uses per sq. ft.	
Industrial (Assembly, Manufacturing, Nursery, Outdoor Storage, Warehouse, Utilities)	$0.58
Office Uses per sq. ft.	
Office (Bank, General, Higher Education, Professional)	$1.62

Medical Office (Clinic, Dental, Emergency Care, Hospital, Medical, Veterinary)	$2.43
Commercial & Retail Uses per sq. ft., unless otherwise indicated	
Local Retail (Entertainment, Restaurant, Retail, Sales, Services)	$1.71
Multi-Tenant Retail (Entertainment, Restaurant, Retail, Sales, Services)	$3.42
Free-Standing Retail (Entertainment, Restaurant, Retail, Sales, Services)	$4.67
Additive Fees for Commercial Services & Retail Uses, unit of measure as indicated	
Bank Drive-Thru or Free-Standing ATM per lane or ATM	$7,174
Motor Vehicle & Boat Cleaning (Detailing, Wash, Wax) per lane or stall	$3,420
Motor Vehicle Charging or Fueling per charging or fueling position	$6,318
Pharmacy Drive-Thru per lane	$4,500
Quick Service Restaurant Drive-Thru per lane	$16,862

"Sec. 21-65. - Mobility fee determination.

(a) Determination. The mobility fee shall be determined using the use classifications in the mobility fee schedule per section 21-64(b).

(b) Closest use determination. In the event a project involves a use not contemplated under the mobility fee use classifications in section 21-64(b), the mobility fee administrator shall determine the mobility fee utilizing the closest use classifications in the mobility plan and mobility fee technical report adopted in section 21-63 and any administrative procedures.

(c) Mixed-use. In the event of a development that involves a mixed-use project, the mobility fee administrator shall determine the mobility fee based on each separate mobility fee use classification included in the proposed mixed-use project. Marinas and overnight lodging with restaurants, bars, shops, meeting space, offices, and other amenities that are leased or sold to a third party and are open to the public and are not limited to guests shall pay a mobility fee based on the square footage of the uses open to the public, in addition to the mobility fees per room. Meeting spaces and office uses would fall under office, while restaurants, shops, bars, and other amenities would be classified as either local retail, or multi-tenant retail.

(d) Outdoor storage. For commercial uses with outdoor storage for construction, farm, or yard material, goods, landscape, materials, merchandise, nursey and garden supplies, or boats, RVs, trailers, or vehicles, the acreage of the outdoor storage area shall be converted into

square feet for purposes of calculating mobility fees. Uses that sell new or used boats, RVs, trailers, or vehicles shall not be considered outdoor storage.

(e) Food truck or container courts. For commercial uses with spaces for food trucks or converted shipping containers shall be evaluated as multi-tenant retail with square footage based on all structures, any pads or envelops for food trucks, and any areas for outdoor seating. For commercial uses that also offer an outdoor recreational component, the recreational acreage shall be assessed as outdoor commercial recreation. Elevated walkways or coverage over those walkways, so long as seating is not provided, shall not be considered a structure for square footage purposes. For any commercial use providing a designated space for one (1) or more food trucks, whether long term or short-term duration, that requires a building permit shall pay a mobility fee per the local or free-standing retail use with the square footage based on the pad or envelop for the food truck.

(f) Additive fees. Additive mobility fees are assessed for high impact uses and are in addition to mobility fees for the square footage of the buildings and structures based on applicable mobility fee rates. The determination of additive mobility fees shall be based on the following:

(1) Each bank building shall pay the office rate for the square footage of the building. Drive-thru lanes, Free Standing ATM's and drive-thru lanes with ATM's are assessed an additive fee per lane or per ATM and are in addition to any mobility fee per square foot associated with a bank building. The free-standing ATM is for an ATM only and not an ATM within or part of another non-financial building, such as an ATM within a grocery store. In some instances, drive-thru or walkup ATM’s maybe freestanding and only assessed the additive mobility fee rate if there is not an associated bank building.

(2) Motor vehicle or boat cleaning shall mean any car wash, wax, or detail where a third party or automatic system performs the cleaning service. Mobility fees are assessed per lane or stall, plus a retail mobility fee rate associated with any additional building square footage.

(3) Motor vehicle charging or fueling mobility fee rates are per vehicle charging or fueling position and apply to a convenience store, gas station, general store, grocery store, supermarket, superstore, variety store, wholesale club or service stations with fuel pumps. In addition, there shall be a separate mobility fee for the square footage of any retail building per the applicable mobility fee rate. The number of charging or fueling positions is based on the maximum number of vehicles that could be charged or fueled at one time. Uses that do not charge a fee for vehicle charging will not be assessed a mobility fee per charging location.

(4) Any drive-thru associated with a pharmacy will be assessed an additive mobility fee per drive-thru lane in addition to the applicable retail mobility fee rate per square foot of the building. The number of drive-thru lanes will be based on the number of lanes present when an individual places or pick-up a prescription or item.

(5) Any drive-thru associated with a quick service restaurant will be an additive fee in addition to applicable retail mobility fee rate per square foot of the building. The number of drive-thru lanes will be based on the number of lanes present when an individual places an order or picks up an order, whichever is greater.

(g) Assessment. The mobility fee will be determined using the appropriate use category, use classification, assessment rate, and rate established per Section 21-64(b).

(h) Alternative determination. Alternative mobility fee or special mobility fee determinations are permitted. In the event an applicant believes that the cost to mitigate the impact of the development of improvements needed to serve the applicant's proposed development is less than the fee established in this Section, the applicant may request consideration of and submit an alternative mobility fee or special mobility fee determination request, along with an application and review fee as determined by the City, and support materials to substantiate the request to the mobility fee administrator pursuant to the provisions of this section. If the mobility fee administrator finds that the data, information, assumptions, formulae, and methodology used by the applicant to calculate the alternative mobility fee or special mobility fee satisfy the requirements of this section, the alternative mobility fee or special mobility fee shall be deemed the mobility fee due and owing for the proposed development.

(1) The mobility fee administrator is responsible for calculating mobility fees in accordance with the provisions of this article. If an applicant believes project impacts are lower than justified by the findings of this article, or believes the proposed use is incorrectly assigned as identified in the mobility fee schedule, or that the assumptions that derive the mobility fee are not applicable to a specific proposed land use, an adjustment to the fees may be requested along with an application and review fee. The mobility fee administrator shall determine whether the request shall be reviewed as either an alternative mobility fee determination or a special mobility fee determination, based upon the impact of the proposed land use on City mobility. The process for reviewing alternative mobility fee determinations is listed below in section 21-65(e)(2). The process for special mobility fee determinations for minor projects with significantly less impacts is found in section 21-65(f).

(2) Alternative mobility fee determination.

a. The alternative mobility fee determination shall be based on data, information, assumptions, formulae, and methodology contained in this article and the mobility fee study referred to in Section 21-64(b) herein, or independent sources, provided that:

1. The independent source is (an) accepted standard source of transportation engineering or planning data or information; or

2. The independent source is a local study carried out by a qualified planner or engineer pursuant to an accepted methodology of planning or engineering; or

3. Where different data, information, assumptions, formulae, or methodology are employed such differences shall be specially identified and justified.

b. An alternative mobility fee calculation shall be undertaken through the submission of an application for review of an alternative mobility fee determination for the

mobility fee component for which an alternative mobility fee calculation is requested. A developer shall submit such an application prior to submittal of a building permit application or as otherwise agreed to in a mobility fee agreement. The city may submit such an application for any new development activity for which it concludes the nature, timing or location of the proposed development makes it likely to generate impacts costing substantially more to remedy than the amount of the fee that would be generated by the use of the mobility fee schedule in section 21-64(b).

c. Within twenty (20) working days of receipt of an application for review of an alternative mobility fee determination, the mobility fee administrator, shall determine if the application is complete. If the mobility fee administrator determines that the application is not complete, a written statement specifying the deficiencies shall be sent to the applicant. The application shall be deemed complete if no deficiencies are specified. The mobility fee administrator shall take no further action on the application until it is deemed complete.

d. When the mobility fee administrator determines the application is complete, the application shall be reviewed and a written decision shall be rendered in thirty (30) working days on whether the mobility fee should be modified, and if so, what the amount should be.

e. If the mobility fee administrator finds that the data, information, assumptions, formulae and methodology used by the applicant to compute the alternative mobility fee calculation satisfies the requirements of this article, the re-determined mobility fee shall be deemed the mobility fee due and owing for the proposed land development activity. This adjustment in the fee shall be set forth in a mobility fee agreement which shall be entered into pursuant to sections 21-66(b) and (c).

f. A determination by the mobility fee administrator that the alternative mobility fee re-determination does not satisfy the requirements of this article may be appealed to the City Commission. The administrative procedures shall detail the appeals process.

g. The applicant shall be responsible for the full costs that the City may incur to review the alternative mobility fee data and methodology which may include consultant and legal costs. Payment will be due at the time of the request for the alternative calculations.

h. An applicant who submits a proposed alternative mobility fee pursuant to this section and desires the issuance of a building permit prior to the resolution of the pending alternative mobility fee shall pay the applicable mobility fee no later than at the time of issuance of the building permit. Said payment shall be deemed paid "under protest" and shall not be construed as a waiver of any rights. Any difference in the amount of the mobility fee after the determination of the pending alternative mobility fee shall be refunded to the applicant.

(i) Special mobility fee determination. An applicant may request a special mobility fee determination for smaller, less intense projects when data and information are presented that substantiates that a project has unique characteristics other than those upon which the mobility fee calculation was based. It is the applicant's responsibility to submit adequate justification and support data to substantiate a lower impact to

mobility fee administrator. The mobility fee administrator may review the request and ask for additional information. The applicant is responsible for additional costs that the City may incur to review these special requests, including consultant and legal costs. Payment will be due at the time of request for the determination.

(j) City initiated mobility fee determination. The mobility fee administrator shall have the ability to determine mobility fees to ensure that the City meets legal and statutory requirements. Unique uses, changes in market dynamics related to uses, and updates to trip generation or household travel data may necessitate that the mobility fee rate for one or more uses is required to be amended to ensure the fee meets nexus and rough proportionality requirements. The administrative procedures shall provide additional detailed related to City initiated determinations."

(k) Review of mobility fee reductions. Any alternative, special, or city initiated mobility fee determinization that results in a reduction of more that 25% of the calculated mobility fee in section 21-64(b), as adjusted for inflation per section 21-75, shall require approval by the City Commission or the review body approved by the City Commission as specified in adopted administrative procedures."

"Sec. 21-66. - Presumptions, agreements, and security requirements.

(a) Impact. A proposed development shall be presumed to generate the maximum impact generated by the most intensive use permitted under the applicable Comprehensive Plan, zoning, or land development regulations or under applicable deed or plat restrictions.

(b) Mobility Fee Agreement. In lieu of the payment of fees as calculated in sections 21-64(b) or 21-65(e), any applicant may propose to enter into a mobility fee agreement with the City designed to establish just and equitable fees or their equivalent and standards of service appropriate to the circumstances of the specific development proposed. Such an agreement may include, but shall not be limited to, provisions which:

(1) Modify the presumption of maximum impact set forth in section 21-66(a) and provide a mobility fee which may differ from that set forth in sections 21-64(b) or 21-65.(e), by specifying the nature of the proposed development for purposes of computing actual impact, provided that the agreement shall establish legally enforceable means for ensuring that the impact will not exceed the impact generated by the agreed upon development;

(2) Permit the construction of specific improvements in lieu of or with a credit against the mobility fees assessable and/or pursuant to a payback schedule, allow the developer to recover the actual cost of such improvements in excess of the amount which would have been assessed by section 21-64(b) as subsequent users of such improvements obtained building permits and pay mobility fees;

(3) Permit a schedule and method for payment of the mobility fees in a manner appropriate to the particular circumstances of the proposed development in lieu of the requirements for payment of the fees as set forth in section 21-64, provided that

security is posted ensuring payment of the fees, in a form acceptable to the City, which security may be in the form of a cash bond, surety bond, irrevocable letter of credit, negotiable certificate of deposit or escrow account, or lien or mortgage on lands to be covered by the building permit.

(c) *Mobility fee agreement approval.* Any agreement proposed by an applicant pursuant to section 21-66 shall be presented to and approved by the City Manager for amounts less than $25,000 and the City Commission for amounts of $25,000 or more prior to the issuance of a building permit. Any such agreement may provide for execution by mortgages, lienholders, or contract purchasers in addition to the landowner, and may permit any party to record such agreement in the official records of St. Johns County, whichever applicable. The City Manager or City Commission shall approve such an agreement only if it finds that the agreement will apportion the burden of expenditure for new facilities in a just and equitable manner."

"Sec. 21-67. - Mobility fee credits.

(a) *Capital Improvements Program.* Only multimodal projects included in the capital improvements program are eligible for mobility fee credits, except as provided for in section 21-67(b). An applicant may request that the City Commission add multimodal projects to the capital improvements program. The multimodal projects requested for inclusion in the capital improvements program shall be based upon the mobility plan. The administrative manual shall detail the information required to request multimodal projects be added to the capital improvements program for purposes of establishing mobility fee credits.

(b) *Adopted plans.* Multimodal projects included in plans adopted by the City Commission, a Community Redevelopment Agency, the North Florida Transportation Planning Organization (TPO), the Florida Department of Transportation (FDOT), St. Johns County, a Transit Authority, a State of Florida Department, a Regional Planning Council, or other governmental entity or utility provider may be eligible for credit if the mobility fee administrator, in consultation with the City's Planning and Building and Public Works Department(s), determines the multimodal project implements the mobility goals of the Comprehensive Plan. Administrative procedures shall detail the information required to request consideration for multimodal projects identified in an adopted plan for purposes of establishing mobility fee credits.

(c) *Development orders or permits.* An applicant may request mobility fee credit against any mobility fee assessed pursuant to section 21-64(b) in an amount equal to the cost of multimodal projects or contributions of land, money or services for multimodal projects contributed or previously contributed, paid for, or committed to by the applicant or his predecessor in interest where the multimodal project is a condition of a development order or permit. Administrative procedures shall detail the information required to request establishing mobility fee credits for off-site multimodal projects or the upgrade of on-site multimodal projects in excess of plan or code requirements per section 21-67(d) that are a condition of a development order or permits issued by the City, County, or FDOT, or requested by the City Engineer, that increase person capacity above and beyond that needed to serve the new development activity may request credit. Mobility fee agreements per sections 21-66(b) and (c) shall be required.

(d) Plan and code requirements. Multimodal projects required to meet minimum Comprehensive Plan and Land Development Code requirements are not eligible for any mobility fee credit. Site access improvements for turn lanes, sidewalks, bike lanes, paths, trails, mobility hubs, round-a-bouts, or traffic signals internal to the development, along the adjacent boundary of the development, at development entrances, or immediately adjacent to the development and considered site-related are not eligible for any credit, except as provided for in section 21-67(c).

(e) Amount of mobility fee credit. The amount of developer contribution credit to be applied to the mobility fee shall be determined according to the following standards of valuation:

(1) The appraised fair market land value of the contributed parcel as of the date of building permit, agreement to contribute, or contribution, whichever is earlier. Administrative procedures shall detail requirements for qualifications of appraisers and establish a process if the City disagrees with the appraised value. No credit should be granted pursuant to this section unless the cost of the improvements or dedication of land were paid for and the contributions made within the last three (3) years; and

(2) The cost of multimodal projects shall be based upon documentation certified by a professional engineer or registered planner, and such documentation shall be reviewed and approved by the City Engineer. The City reserves the right to require the developer to competitively bid in accordance with the City Code, in which case the credit shall be limited to the actual cost or 100 percent of the lowest responsible bid amount, whichever is less. All bidders shall be qualified to construct the multimodal projects. The administrative procedures shall provide additional detail on the types of documentation to be provided and detail the cost components of multimodal projects that may be eligible for credit; and

(3) Administrative procedures shall detail additional requirements for mobility fee credit documentation and the options available and process for any excess mobility fee credit.

(f) Transfer of mobility fee credit. Credit for contributions, payments, construction, or dedications of a mobility fee shall not be transferable to another property where a mobility fee is imposed, unless provided for in a developer agreement, mobility fee agreement, or as provided for in Florida Statute. Credit shall first be used for the full development potential of the land development activity for which a development order was approved before any excess credit can be considered for transfer to another property. The establishment, tracking and agreement to allow credit transfer shall be consistent with the processes and requirements detailed in the administrative procedures or as specified in a developer agreement or mobility fee agreement.**"**

"Sec. 21-68. - Mobility fee benefit district.

(a) Intent. The establishment of a mobility fee benefit district(s) is the best method of ensuring that the mobility fees paid by new development activity are expended within a defined area that provides a mobility benefit to the new development which paid the mobility fees, as required per the benefits test of the dual rational nexus test.

(b) Expenditure. The mobility fee benefit district provides a clearly defined boundary for the expenditure of mobility fee revenue. Using the mobility fee benefit district ensures that funds paid by new development activity are expended on multimodal projects to accommodate person travel demand within the benefit district, providing a reasonable nexus between the expenditure of mobility fee revenue and the development for which the mobility fees are paid.

(c) Establishment. The extent of the mobility fee benefit district shall be all areas within the City limits, including existing County enclaves. For purposes of mobility fee expenditures, the Northeast Florida Regional Airport or City limits shall form the northern boundary, the Tolomato River, St. Augustine Inlet, and Atlantic Ocean shall form the eastern boundary, SR 312 or City limits to the south, and the SR 313 extension or City limits to the west. The benefit district boundaries may expand or contract due to annexation or de-annexations.**"**

"Sec. 21-69. - Mobility fee fund account.

There is hereby-established a mobility fee fund account for the mobility fee benefit district. For accounting purposes, mobility fees shall be considered special revenue funds. Mobility fees collected from new development activity located within the mobility fee benefit district shall be deposited into the corresponding mobility fee fund. Funds withdrawn from these accounts shall be used solely in accordance with the provision of sections 21-68 and 21-70. The mobility fee fund account is subject to audit and reporting requirements of Florida Statute Section 163.3180, as amended by the Legislature.**"**

"Sec. 21-70. - Mobility fee expenditures.

(a) Expenditure of funds. Amounts on deposit in the mobility fee fund account shall be used by the City solely for developing multimodal projects or for financing directly, or as a pledge against bonds, revenue certificates and other obligations of indebtedness, the costs of multimodal projects, or portions thereof, that are located in the mobility fee benefit district from which the funds were collected and are included in the capital improvement element or program, an adopted plan, a development order or permit condition, or where the City Commission agrees to add the multimodal project to the capital improvements program.

(b) Prohibition. The amounts on deposit in the mobility fee fund shall not be used for an expenditure that would be classified as a transportation operation and maintenance expense, unless expressly included in the capital improvements program or mobility plan with written findings for using funds for operation and maintenance of a multimodal project.

(c) Use of funds. Funds withdrawn from the mobility fee account must be used solely in accordance with the provisions of this article. The disbursal of such funds shall require the approval of the City Commission upon recommendation of the City Manager.

(d) Interest bearing accounts. Any mobility fee funds on deposit not immediately necessary for expenditure shall be invested in interest-bearing accounts. Funds may be pooled for investment provided all income derived from the fund's assets shall be deposited in the applicable fund account.**"**

"Sec. 21-71. - Mobility fee refunds.

(a) Refund required. The mobility fees collected pursuant to section 21-64(b) shall be returned to the then present owner of the development if the fees have not been encumbered or spent by the end of the calendar quarter immediately following seven (7) years from the date the fees were collected, or if the development for which the fees were paid was never begun.

(b) Refund process. For purposes of section 21-70, mobility fees collected shall be deemed to be encumbered or expended on a "first in-first out" basis (i.e., the first money placed in a fee fund shall be deemed to be the first money expended or encumbered). The following procedure will apply for requests for eligible refunds:

(1) The then present owner must petition the City Commission for the refund within one (1) year following the end of the calendar quarter immediately following seven (7) years from the date on which the fee was received.

(2) The petition must be submitted to the City Manager and must contain:

a. A notarized sworn statement that the petitioner is the current owner of the property or his authorized agent; and

b. A copy of the dated receipt issued for payment of the fee or other competent evidence of payment; and

c. A certificate of title or attorney's title opinion showing the petitioner to be the current owner of the property or his authorized agent; and

d. A copy of the most recent ad valorem tax bill; and

e. A copy of the building permit or development agreement pursuant to which the mobility fees were paid.

(3) Within sixty (60) working days from the date of receipt of petition for refund, the City Manager or designee shall advise the petitioner and the City Commission of the status of the fee requested for refund. For the purposes of determining whether fees have been spent or encumbered, the first money placed in a trust fund account shall be deemed to be the first money taken out of that account when withdrawals have been made in accordance with section 21-70.

(4) When the money requested is still in the mobility fee fund account and has not been spent or encumbered by the end of the calendar quarter immediately following seven (7) years from the date of the fees were paid, the money shall be returned with interest at the rate of one (1) percent per annum.

(5) When a refund is requested because construction was never begun, all development order approvals shall have expired, and the applicant shall execute an agreement acknowledging the expiration of development order approval.

(6) A request for a refund of mobility fees must be made one (1) year from the issuance of the building permit or use by exception or six (6) months from the expiration of the permit whichever is later only if no development activity has started. The refund amount will be less ten (10) percent of the fees that were ultimately to have been paid, regardless of the amount actually paid, to cover

administrative cost. If the applicant does not apply within the time limits stated above, there will be no refund.

(c) Prepayment refund process. For any new development activity that prepays its mobility fee, the applicant may request a refund for any prepayment of a mobility fee. The applicant that made the prepayment of the fees shall request a refund in writing. The request shall include documentation of the amount paid and the amount being assessed at the building permit application. The written request shall be made prior to issuance of a building permit.

(1) Within twenty (20) working days of receipt of a written request for prepayment, the mobility fee administrator, shall determine if the request is complete. If the mobility fee administrator determines that the request is not complete, a written statement specifying the deficiencies shall be sent to the applicant. The application shall be deemed complete if no deficiencies are specified. The mobility fee administrator shall take no further action on the request until it is deemed complete.

(2) When the mobility fee administrator determines the request is complete, the request shall be reviewed and a written decision shall be rendered in thirty (30) working days on whether the mobility fee should be refunded, and if so, what the amount should be.

(3) If the mobility fee administrator finds that the request satisfies the requirements of this article, the refund shall be processed within 30 working days."

"Sec. 21-72. - Effect on land use and development regulations.

(a) Land use. The listing of a use in the mobility fee schedule is solely for purposes of establishing the applicable mobility fee for such use, and such listing does not mean that the use is permitted or available under applicable zoning and Comprehensive Plan Future Land Use requirements. In addition, the listing of the use in the mobility fee schedule shall not be considered evidence that the use is appropriate in any existing or future land use classification or zoning district.

(b) Land development code. The payment of mobility fees does not ensure nor grant compliance with the City's land development code, including regulations relating to site access, corridor access management, substandard roads, secondary access, timing and phasing, or mobility impact or site impact review. However, if such regulations require transportation mitigation for the same travel demand impacts addressed through the payment of mobility fees, such regulations shall be deemed to provide for mobility fee credit against imposed mobility fees consistent with Federal and State laws and this article."

"Sec. 21-73. - Administrative procedures and service charges.

(a) Administrative procedures. The City shall prepare and periodically update mobility fee administrative procedures that addresses administration, implementation, and update of the mobility plan and mobility fee. The administrative procedures shall address assessments, credit and off-set request, fee and land use determinations,

special studies, expenditures, and monitoring. The administrative procedures shall require approval by resolution of the City Commission.

(b) *Service charge.* The City shall prepare and periodically update mobility fee service charges to ensure that the City's general fund does not bear the full burden of administering and implementing the mobility fees, provided that the service charges do not exceed the City's actual costs of administration and implementation of the mobility fee system per Florida Statute Section 163.3180. Mobility fee service charges shall be in addition to the imposed mobility fee and shall account for future updates of the mobility plan and mobility fee in the service charge determination. The mobility fee service charge shall require approval by resolution of the City Commission."

"Sec. 21-74. - Annual report.

The City shall comply with all audit requirements of Florida Statutes. The City shall include in its annual Capital Improvements Plan update an accounting of projects funded by mobility fees. The annual budget shall indicate mobility fee revenues and expenditures."

"Sec. 21-75. Review and update.

(a) *Mobility plan and fee update.* The mobility plan and mobility fee shall be updated by the City at least once every four (4) years with no more than five (5) years between adoption. The mobility plan and mobility fee shall be reviewed annually during either the capital improvements budget process or the preparation of the mobility fee annual report. The review shall include a recommendation regarding the need to update the mobility plan and mobility fee earlier than the four (4) year schedule due to factors such as increased cost, amendments to the Future Land Use Element and Map that result in the need for additional infrastructure, the addition or subtraction of multimodal projects to the Mobility Plan and Capital Improvements Program with a cumulative cost of more than $20 million, and the update of professional technical reports such as the ITE Trip Generation Manual or Highway Capacity Manual used in the calculation of a mobility fee. The review and updates shall consider all factors utilized in the most recent computation of mobility fees. However, in the event that a full reevaluation and updates are not complete within the required four (4) year period, the last adopted mobility fee shall remain in effect until the reevaluation is complete.

(b) *Annual Inflation adjustment.* To ensure that mobility fees keep pace with inflation, on January 1st of each calendar year, starting in 2023, the mobility fees in section 21-64(b) shall increase by the projected rate of inflation for the upcoming calendar year as determined by the most recent FDOT Transportation Cost Report Construction Cost Inflation Factors released on or about July of each calendar year. Should FDOT cease to report, then annual inflation factor adjustments shall be based on either the national Producers Price Index for transportation projects or the Consumer Price Index.

(c) *Annual update.* The City shall update the mobility fees in section 21-64(b) on or before September 30th of each calendar year, starting in 2022, with an effective date of January 1st, of each calendar year, starting in 2023. The City shall advertise the fees in a publication of general circulation available to City residents and businesses or as permitted by State Statute, on the City's website. The advertisement shall be published and/or posted 90 calendar days prior to the effective date of the increase in the mobility fees. Should the City not be able to update and publish the fees by September 30th,

then the effective date shall be a minimum of 90 calendar days from the date of update and publication of the update.

(d) Notice provided. The requirements of section 21-75(b) and (c) shall serve as the statutorily required notice to the public that mobility fees will increase on an annual basis, adjusted for inflation, and that section 21-75 shall be deemed to address Statutory requirements that notice be provided 90 calendar days prior to an increase in a mobility fee. The notice requirement of section 21-75(c) is provided as a courtesy reminder only.

(e) Required notice for increase. Updates to the mobility plan and mobility fee that result in an increase in mobility fees shall be required to provide 90 calendar days' notice before the increased fees are assessed on new development activity per Florida Statute."

"Sec. 21-76. - Development agreements.

(a) Applicability. An applicant may enter into a development agreement with the City to establish mobility fees or to provide equivalent multimodal projects necessary to serve new development.

(b) Approval. Any agreement proposed by an applicant pursuant to section 21-76 shall be presented to and approved by the City Commission prior to the issuance of a building permit. Any such agreement shall provide for execution by any mortgagees, lienholders, or contract purchasers in addition to the landowner, and shall require the applicant to record such agreement in the public records of St. Johns County. The City Commission shall approve such an agreement only if it finds that the new agreement will apportion the burden of expenditure for new facilities in a just and equitable manner, consistent with applicable Florida Statutes, case law and this article."

"Sec. 21-77.- Vested rights

(a) Request. It is not the intent of section 21-77. to abrogate, diminish or modify the rights of any persons that have vested rights pursuant to a valid governmental act of the City. An applicant may petition the City Commission for a vested rights determination which could exempt the applicant from portions of this article. The City shall evaluate the petition and submit a recommendation to the City Commission based upon the following criteria:

(1) A valid, unexpired governmental act of the City, authorizing the building for which applicants seeks a certificate of occupancy, exists.

(2) Expenditures or obligations made or incurred in reliance upon the authorizing act are reasonably equivalent to the fee required by Section 21-64(b)

(3) That it would be inequitable to deny the applicant the opportunity to occupy a previously approved building under the conditions of the previous approval by requiring the applicant to comply with the provisions of this article.

(b) Developer agreement amendment. If an applicant has previously entered into a development agreement with the City with conditions regarding off-site multimodal projects, the applicant or applicant's successor in interest may request an amendment

of the prior development agreement in order to bring the conditions into consistency with this article. The applicant must file a request for such modification with the Planning and Building Department within one year of the effective date of this article."

"Sec. 21-78. – Appeal.

An applicant may appeal any decisions related to assessments, credits, determinations, or refunds made by the mobility fee administrator. The applicant shall file a notice of appeal with the mobility fee administrator within 30 calendar days of any final decision in which the applicant does not concur. The mobility fee administrator shall render a decision within 30 calendar days of the notice of appeal. An applicant may appeal the mobility fee administrator's decision to the city manager by filing a notice of appeal with the mobility fee administrator within 30 calendar days of the mobility fee administrator's decision. The city manager shall meet with the applicant and the mobility fee administrator within 30 calendar days of receipt of the notice to hear from both the applicant and mobility fee administrator. The city manager shall render a decision within 15 calendar days of the meeting. An applicant may appeal the city manager's decision to the city commission by filing a notice of appeal with the city attorney within 30 calendar days of the city manager's decision. The city commission shall hear the appeal at the next available meeting. An applicant shall have 30 calendar days to appeal the city commission determination to the circuit court by writ of certiorari. The administrative procedures shall specify the required documentation to be provided as part of the appeals process and applicable procedural requirements."

"Sec. 21-79. – Penalty.
Violations of this article will be enforceable by all legally available remedies, including but not limited to code enforcement proceedings consistent with this code and chapter 162 Florida Statutes."

"Sec. 21-80. To 21-100. – Reserved"

Section 3. Conflict with Other Ordinances. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. Severance of Invalid Provisions. If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then said holding shall not be so construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

Section 5. Scrivener's errors. It is the intention of the City Commission of the City of St. Augustine, Florida and it is hereby provided that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of St. Augustine, Florida and to that end, the sections

of this ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to "section" or "article" or other appropriate designation. Additionally, corrections of typographical errors which do not affect the intent of this Ordinance may be authorized by the City Attorney without public hearing, by filing a corrected or re-codified copy with the Clerk of Courts.

Section 6. Ordinance to be liberally construed. This ordinance shall be liberally construed in order to effectively carry out the purposes hereof which are deemed not to adversely affect public health, safety, or welfare.

Section 7. Modifications. It is the intent of the City Commission of St. Augustine, Florida, that the provisions of this ordinance may be modified as a result of considerations that may arise during a public hearing. Such modifications shall be incorporated into the final version of the ordinance adopted by the City Commission.

Section 8. Effective Date. This ordinance shall become effective on May 17, 2022, consistent with the notice requirements of Chapters 166.041 and 163.31801, Florida Statutes.

PASSED by the City Commission of the City of St. Augustine, Florida, this _____ day of _____, 2022.

ATTEST:

_____
Tracy Upchurch, Mayor-Commissioner

_____
Darlene Galambos, City Clerk
(SEAL)