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3 **Staff Summary**

4 This ordinance establishes the Proportionate Fair Share Program by amending Chapter 5
5 of the Land Development Regulations and creating Section 5.04.00, Land Development
6 Regulations, entitled “Proportionate Fair Share Program,” to establish a method for mitigating
7 the impacts of development on transportation facilities with concurrency deficiencies through
8 proportionate share agreements with developers.

9 **ORDINANCE PROPORTIONATE FAIR SHARE PROGRAM**

10
11 **AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LAKE**
12 **COUNTY, FLORIDA; AMENDING SECTION 5.01.01; LAND DEVELOPMENT**
13 **REGULATIONS, ENTITLED GENERAL PROVISIONS; AMENDING SECTION**
14 **5.02.00, LAND DEVELOPMENT REGULATIONS, ENTITLED CONCURRENCY**
15 **MANAGEMENT SYSTEM; PROVIDING FOR AN OPTION FOR A**
16 **PROPORTIONATE FAIR SHARE AGREEMENT; AMENDING SECTION**
17 **5.03.02, LAND DEVELOPMENT REGULATIONS, ENTITLED PUBLIC**
18 **FACILITY/SERVICE CAPACITY REVIEW CRITERIA; AMENDING SECTION**
19 **5.03.04, LAND DEVELOPMENT REGULATIONS, ENTITLED ALTERNATE**
20 **DATA FOR CAPACITY ANALYSIS; PROVIDING AN EXEMPTION FOR**
21 **TRANSPORTATION CAPACITY FROM ALTERNATE DATA FOR CAPACITY**
22 **ANALYSIS; PROVIDING FOR AN OPTION FOR A PROPORTIONATE FAIR**
23 **SHARE AGREEMENT; AMENDING SECTION 5.03.07, LAND DEVELOPMENT**
24 **REGULATIONS, ENTITLED PAYING FOR CAPACITY RESERVATIONS;**
25 **CREATING SECTION 5.04.00, LAKE COUNTY CODE, LAND DEVELOPMENT**
26 **REGULATIONS, ENTITLED PROPORTIONATE FAIR SHARE PROGRAM;**
27 **PROVIDING FOR A METHOD OF MITIGATING IMPACTS ON**
28 **TRANSPORTATION FACILITIES; PROVIDING FOR PURPOSE AND**
29 **INTENT; PROVIDING FOR APPLICABILITY; PROVIDING GENERAL**
30 **REQUIREMENTS; PROVIDING THE APPLICATION PROCESS; PROVIDING**
31 **FOR DETERMINATION OF PROPORTIONATE FAIR SHARE OBLIGATION;**
32 **PROVIDING FOR IMPACT FEE CREDIT FOR PROPORTIONATE FAIR**
33 **SHARE MITIGATION; PROVIDING FOR PROPORTIONATE FAIR SHARE**
34 **AGREEMENTS; PROVIDING FOR APPROPRIATION OF FAIR SHARE**
35 **REVENUES; PROVIDING FOR SEVERABILITY; PROVIDING FOR**
36 **INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

37
38 **WHEREAS**, transportation concurrency is a growth management principle that ensures
39 the necessary transportation facilities and services are available concurrent with the impacts of
40 development; and

41
42 **WHEREAS**, the Lake County Comprehensive Plan, Objective 1-5 provides that Lake
43 County shall assure that needed public services and facilities are developed concurrent with the
44 impact of new development; and

45

1 **WHEREAS**, the Lake County Comprehensive Plan, Objective 1-13 provides that the
2 County shall monitor impacts generated by future development and that no development orders
3 or permits shall be issued unless it has been determined that Concurrency Management System
4 (CMS) criteria have been met; and
5

6 **WHEREAS**, Policy 2-2.3 of the Lake County Comprehensive Plan provides that the
7 County will coordinate with municipalities to assure that impacts of future development will
8 not cause levels of service standards to diminish below the adopted level; and
9

10 **WHEREAS**, the County has worked closely with the municipalities and the Lake-Sumter
11 MPO to develop a proportionate fair share ordinance that will allow for effective
12 intergovernmental coordination for implementation of the proportionate share program; and
13

14 **WHEREAS**, Policy 2-2.6 of the Lake County Comprehensive Plan states that prior to the
15 issuance of a development order or permit, an applicant must assure that adequate roadway
16 capacity is available concurrent with the impacts of the proposed development and that the
17 proposed development shall not degrade the roadway below the adopted level of service
18 standard; and
19

20 **WHEREAS**, Section 5.00.01, Land Development Regulations, states that it is the intent
21 of Chapter 5 to ensure that level of service standards adopted in the Lake County
22 Comprehensive Plan for transportation facilities and services are maintained during the
23 development review process; and
24

25 **WHEREAS**, Section 163.3180(16), Florida Statutes, directes local governments to enact
26 concurrency management ordinances that allow for proportionate fair share contributions from
27 developers toward concurrency requirements; and
28

29 **WHEREAS**, the Proportionate Fair Share Program allows the public and private sections
30 to cooperate in mitigating the impacts of development on transportation facilities; and
31

32 **WHEREAS**, the Board now desires to establish the Proportionate Fair Share Program to
33 encourage private sector involvement in the improvement of transportation facilities with a
34 concurrency deficiency.
35

36 **NOW THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of
37 Lake County, Florida, as follows:
38

39 **Section 1. Recitals.** The foregoing recitals are true and correct and incorporated
40 herein by reference.
41

42 **Section 2. Amendment.** Section 5.01.01, Lake County Code, Appendix E, Land
43 Development Regulations, entitled General, is amended to read as follows:
44
45
46

1 **5.01.01 Purpose and Intent.**

2
3 A. All Development Orders, as defined in Chapter II, issued by the County shall be
4 subject to Concurrency Management. Exemptions for Concurrency Management
5 shall be granted for Development determined by the County to have negligible
6 impacts on public facilities and services in accordance with the exemption criteria
7 established in Section 5.01.02. Additionally, exemptions from the Concurrency
8 Management Review, or portions thereof, may be granted for developments
9 determined by the County to have "De Minimus" impacts on public facilities and
10 services in accordance with the exemption criteria established in Section 5.01.03.

11
12 ~~B. Development associated with Development Orders that have been granted vested~~
13 ~~rights in accordance with the criteria established in Section 5.04.00 shall not be~~
14 ~~subject to the Concurrency Management Review.~~

15
16 **Section 3. Amendment. Amendment.** Section 5.02.00, Lake County Code,
17 Appendix E, Land Development Regulations, entitled Concurrency Management System, is
18 amended to read as follows:

19
20 **5.02.00 Concurrency Management System.**

21
22 No Development Order shall be issued by the County unless there is sufficient capacity
23 of public facilities and services, at the adopted level of services standards, needed to support the
24 Development, concurrent with the impacts of such Development, in accordance with the
25 following criteria:

26
27 *(Subsections A and B shall remain unchanged)*

28
29 C. Transportation (Roads). For transportation facilities and services, the
30 concurrency management review procedure shall be satisfied through one (1) of
31 the following actions approved by Lake County during the development review
32 process:

33
34 1. Satisfy one (1) of the four (4) criteria stipulated above for potable water,
35 sanitary sewer, solid waste and stormwater management facilities and
36 services; or

37
38 2. Necessary Improvements are programmed within the first three (3) years of
39 the Five-Year Schedule of Capital Improvements provided that each of the
40 following conditions is met:

41
42 a. The Five-Year Capital Improvements Program and the Capital
43 Improvements Element of the Lake County Comprehensive Plan are
44 financially feasible. As permitted by Section ~~9J-5.0055(2)(c)1.~~ 9J-
45 5.0055(3)(c)2, F.A.C., concurrency determinations shall only include

1 transportation projects scheduled in or before the first three (3) years of
2 the Five-Year Schedule of Capital Improvements

- 3
- 4 b. The Five-Year Capital Improvements Program includes Improvements
5 necessary to correct any identified Road deficiencies and maintained
6 adopted levels of service for existing and Permitted Development within
7 the first three (3) years of the Five-Year Schedule of Capital
8 Improvements and the provision of service will commence in or before
9 that third year.
- 10
- 11 c. The Five-Year Capital Improvements Program is a realistic, financially
12 feasible program based on currently available revenue sources and
13 Development Orders will only be issued if the public facilities necessary
14 to serve the Development are available or included in or before the first
15 three (3) years of the Five-Year Schedule of Capital Improvements.
- 16
- 17 d. The Five-Year Capital Improvements Program identifies whether funding
18 is for design, engineering, consultant fees, or construction and indicates,
19 by fiscal year, how the dollars will be allocated.
- 20

21 3 Execution of a Proportionate Fair Share Agreement in accordance with
22 Section 5.04.07, Land Development Regulations.

23

24 **Section 4. Amendment.** Section 5.03.02, Lake County Code, Appendix E, Land
25 Development Regulations, entitled Public Facility/Service Capacity Review Criteria, is amended
26 to read as follows:

27

28 **5.03.02 Public Facility/Service Capacity Review Criteria.** Capacity analysis for public
29 facilities and services shall be completed in accordance with the following criteria:

30

31 A. Roads.

- 32
- 33 1. The demand on transportation facilities and services shall be based on the
34 number of trips generated by the proposed Development using the most
35 recent edition of the ITE Trip Generation Manual, a trip distribution which
36 is mutually agreed upon by the Applicant and the County using the best
37 trip attraction/generation data available to the County and a Development
38 impact area established using the following impact area guidelines:
- 39
- 40 a. There shall not be an impact area established, nor shall there be a
41 transportation impact associated with, Developments that have ~~no~~
42 ~~impact~~ a de minimus impact on transportation facilities and
43 services. ~~No impact is one that would not affect more than .1~~
44 ~~percent of the maximum volume, at the adopted level of service~~
45 ~~standard, of the transportation facility providing direct access to~~
46 ~~the proposed Development, and that is caused by an increase in~~

1 ~~Density or Intensity that is less than or equal to twice the Density~~
2 ~~of the existing Land Use, or, in the case of vacant Land, is a~~
3 ~~Density of less than one (1) Dwelling Unit per quarter acre of a~~
4 ~~floor area ratio of .1 for nonresidential uses.~~

5
6 b. The impact area for Developments that generate less than one
7 hundred (100) peak hour/peak direction trips (approximately one
8 thousand five hundred (1,500) trips per day) on a weekday shall
9 include, at a minimum, the roadways which provide access to the
10 proposed Development and roadways within one-half (1/2) mile of
11 the proposed access to the Development. This minimum impact
12 area shall be increased, at the discretion of the County Manager or
13 his designee, if it can be demonstrated that the proposed
14 Development has substantial impact on additional roadways
15 because of the location of the Development in relation to arterial
16 and Collector Roadways (e.g., a Development along a local
17 roadway for which access to a collector or an arterial roadway
18 would require traversing a distance in excess of one-half (1/2) mile
19 and for which the nearest collector or arterial roadway is the only
20 roadway providing trip distribution).

21
22 c. For Developments that generate one hundred (100) peak hour/peak
23 direction trips or more on a weekday, the impact area shall include,
24 at a minimum, the roadways which provide access to the proposed
25 Development and roadways within one-half (1/2) mile of the
26 proposed access to the Development, as well as the area of
27 significant impact which shall include an area to: 1) a point where
28 traffic generated by the Development is less than ten (10) percent
29 of the maximum volumes, at the adopted level of service standard,
30 of the transportation facilities; and 2) a point where traffic
31 generated by the Development is less than ten (10) percent of the
32 intersection design capacity as defined in the ~~1985~~ 2000 Highway
33 Capacity Manual, as amended.

34
35 2. Once the demand on transportation facilities has been calculated, it shall be
36 compared to the available capacity of the transportation facilities. Available
37 capacity shall be determined by subtracting the existing traffic volume on the
38 transportation facilities, the traffic generated by Developments that have
39 previously reserved capacity on the transportation facilities and the traffic
40 generated by Developments that have previously encumbered capacity on the
41 transportation facilities from the maximum volume of the transportation facilities,
42 at the adopted level of service standards. If the demand on transportation
43 facilities and services exceeds the available capacity of the transportation facilities
44 and services, the Development Order associated with the concurrency
45 Management review shall not be approved unless a Proportionate Fair Share

1 Agreement has been executed in accordance with Section 5.04.00, Land
2 Development Regulations.

- 3
4 3. In the event that the impact area for the proposed Development includes
5 transportation facilities and services within a municipality or within an adjacent
6 county, the affected municipality or adjacent county shall be notified of the
7 proposed Development and its associated transportation facilities and services
8 demand, and shall be requested to provide a letter of response indicating whether
9 the transportation facilities and services within the municipality or adjacent
10 county have capacity available to serve the proposed Development. The affected
11 municipality or county shall be given 30 days from the request to provide a
12 response. If the affected municipality or county indicates that the demand on
13 transportation facilities and services exceeds the available capacity, the
14 Development Order associated with the concurrency management review shall
15 not be approved unless a Proportionate Fair Share Agreement has been executed
16 in accordance with Section 5.04.00, Land Development Regulations.

17
18 *(Subsections B through F shall remain unchanged)*

19
20 **Section 5. Amendment.** Section 5.03.07, Lake County Code, Appendix E, Land
21 Development Regulations, entitled Paying for Capacity Reservation, is hereby amended to read
22 as follows:

23
24 **5.03.07 Paying for Capacity Reservation.**

- 25
26 A. In order to reserve capacity, the Applicant must provide one (1) of the following
27 forms of payment:
28
29 1. Direct payment of fees;
30
31 2. Letter of credit;
32
33 3. Development agreement to establish a first priority lien against the
34 property; or
35 4. County approved cash escrow agreement.
36
37 B. Actual impact fees are due and payable in accordance with the criteria established
38 in ~~Chapter XV of these Land Development Regulations~~ Chapter 22 of the Lake
39 County Code in association with the building permit issued by the County since
40 the capacity reservation fee only represents an estimate of County impact fees. All
41 funds collected for the purpose of reserving capacity shall be used as partial
42 payment of the transportation impact fees associated with the Development.

43
44 **Section 6. Creation.** Section 5.04.00, Lake County Code, Appendix E, Land
45 Development Regulations, entitled Proportionate Fair Share Program, is hereby created to read
46 as follows:

1
2 **5.04.00** **Proportionate Fair Share Program**
3

4 **5.04.01** **Purpose and Intent.** The purpose of this section is to establish a
5 mitigation methodology for transportation facilities development impacts through cooperative
6 efforts of the public and private sectors. This methodology shall be known as the Proportionate
7 Fair Share Program as specified in §163.3180(16), F.S. This section will provide methods and
8 procedures for the County to coordinate the Proportionate Fair Share Program.
9

10 **5.04.02** **Applicability.** The Proportionate Fair Share Program shall apply to all
11 proposed development in Lake County that have been notified by the County Manager or
12 designee that demand on transportation facilities and services exceeds the available capacity.
13 The Proportionate Fair Share Program does not apply to developments of regional impact (DRIs)
14 subject to proportionate share under §163.3180(12), F.S., vested developments, or to
15 developments exempted from concurrency as provided by local and state law.
16

17 **5.04.03** **General Requirements.** If an applicant receives a Notice of Capacity
18 Determination indicating that there is a lack of capacity to satisfy transportation concurrency
19 pursuant to Section 5.03.05(A)(2), an applicant may choose to satisfy the transportation
20 concurrency requirements by making a proportionate fair share contribution, provided that one of
21 the following exists:
22

23 A. The five-year schedule of capital improvements in the Capital Improvements
24 Element (CIE) of the Comprehensive Plan includes transportation improvement(s)
25 in years four or five that, upon completion, will provide the capacity necessary to
26 meet concurrency at that time; or
27

28 B. A resolution is adopted which specifies a commitment to add improvements that
29 will provide the capacity necessary to satisfy concurrency. If the improvements
30 are not contained in the five-year schedule of capital improvements in the CIE,
31 the specified improvements shall be included no later than the next regularly
32 scheduled update. To qualify for consideration under this section, the proposed
33 improvement must be
34

35 1. Reviewed by the County Manager or designee and must be
36 determined to be financially feasible pursuant to §
37 163.3180(16)(b)1, F.S.;
38

39 2. Consistent with the comprehensive plan of each jurisdiction within
40 which any portion of the proposed improvement occurs; and
41

42 3. In compliance with the provisions of this section.
43

44 If a transportation facility proposed for the Proportionate Fair Share Program
45 is under the jurisdiction of another entity, such as FDOT, the proposed facility
46 shall be included in the five-year Work Program of that entity or, a

1 commitment shall be adopted through resolution to add the improvement to
2 the schedule of capital improvements in the CIE or long-term schedule of
3 capital improvements for an adopted long-term Concurrency Management
4 System (CMS) no later than the next regularly scheduled update; or
5

6 C. If the funds allocated for the schedule of capital improvements in the CIE are
7 insufficient to fund construction of a transportation improvement needed to satisfy
8 concurrency, the County may enter into a binding Proportionate Fair Share
9 Agreement with the applicant. The agreement may authorize construction of the
10 development if the proportionate fair share amount in such agreement is
11 determined to be sufficient to pay for improvements which will, in the opinion of
12 each governing body maintaining the transportation facilities, significantly benefit
13 the impacted transportation system. The improvement(s) funded by the
14 proportionate fair share component must, for each affected local jurisdiction, be
15 adopted into the capital improvements schedule of the CIE or the long-term
16 schedule of capital improvements for an adopted long-term CMS at the next
17 annual capital improvements element update.
18

19 **5.04.04 Application Process**
20

21 A. Upon receipt of a Notice of Capacity Determination pursuant to Section
22 5.03.05(A)(2) indicating a lack of capacity to satisfy transportation concurrency,
23 the applicant shall be notified in writing of the opportunity to satisfy
24 transportation concurrency through the Proportionate Fair Share Program.
25

26 B. Prior to submitting an application for a Proportionate Fair Share Agreement, a
27 pre-application meeting shall be held with all affected jurisdictions to discuss
28 eligibility, application submittal requirements, mitigation options, and related
29 issues. The appropriate parties for review of a proposed Proportionate Fair Share
30 Agreement shall include the jurisdiction maintaining the transportation facility
31 subject to the agreement, if other than Lake County. If the impacted facility is a
32 state facility, then the Florida Department of Transportation (FDOT) will be
33 invited to participate in the pre-application meeting.
34

35 C. The County Manager, or designee, shall review the application and certify that the
36 application is sufficient and complete within ten (10) days of receipt. If an
37 application is determined to be insufficient, incomplete or inconsistent with the
38 general requirements of the Proportionate Fair Share Program, then the applicant
39 shall be notified in writing of the reasons for such deficiencies within ten (10)
40 days of receipt of the application. If such deficiencies are not remedied by the
41 applicant within thirty (30) calendar days from the date of the written notification
42 then the application will be deemed abandoned. The County Manager, or
43 designee, may grant one (1) extension of time not to exceed sixty (60) calendar
44 days to cure such deficiencies, provided that the applicant has shown good cause
45 for requesting the extension and has taken reasonable steps to remedy the
46 deficiencies.

- 1
2 D. Pursuant to § 163.3180(16)(e), F.S., proposed proportionate fair share mitigation
3 for development impacts to facilities on the Strategic Intermodal System (SIS)
4 requires the approval of FDOT. The applicant shall submit evidence of an
5 agreement between the applicant and FDOT for inclusion in the proportionate fair
6 share agreement. The County also may need to enter into an agreement with
7 FDOT as appropriate.
8
9 E. When an application is deemed sufficient, complete, and eligible, the applicant
10 shall be advised in writing and a proposed proportionate fair share obligation and
11 binding agreement will be prepared by the County. The agreement will be
12 delivered to the appropriate parties for review no later than sixty (60) calendar
13 days from the date of notification of a sufficient application and no fewer than
14 fifteen (15) days prior to the Board of County Commissioners meeting when the
15 agreement will be considered.
16
17 F. The County Manager or designee shall notify the applicant regarding the date of
18 the Board of County Commissioners meeting when the agreement will be
19 considered for final approval. No proportionate fair share agreement will be
20 effective until approved by the Board of County Commissioners.
21

22 **5.04.05 Determining Proportionate Fair Share Obligation**

- 23
24 A. Proportionate fair share mitigation for concurrency impacts may include, without
25 limitation, separately or collectively:
26
27 1. The addition of transportation capacity through several means such as the
28 physical widening and/or reconstruction of a roadway to add capacity;
29
30 2. The addition of transportation capacity through creation of new reliever
31 roadways;
32
33 3. Monetary contributions;
34
35 4. New network additions;
36
37 5. Contributing to new transit capital facilities (e.g., bus rapid transit
38 corridor);
39
40 6. Contributing to the expansion of bus fleets to increase service frequency;
41
42 7. Other contributions to mass transit system expenses; or
43
44 8. Any other means determined by the County Manager or designee to add
45 transportation capacity sufficient to mitigate impacts.
46

1 B. A development shall not be required to pay more than its proportionate fair share.
2 The fair market value of the proportionate fair share mitigation for the impacted
3 facilities shall not differ regardless of the method of mitigation.

4
5 C. The following formula shall be used to calculate an applicant's proportionate fair
6 share obligation as provided for in § 163.3180(12), F.S.:
7

$$8 \text{ Proportionate Fair Share} = \sum \left[\left[\frac{\text{Development Trips}_i}{\text{SV Increase}_i} \right] \times \text{Cost}_i \right]$$

9
10 Where:

11 Development Trips_i = Those trips from the stage or phase of development
12 under review that are assigned to roadway segment
13 "i" and have triggered a deficiency per the CMS;
14 only those trips that trigger a concurrency
15 deficiency will be included in the proportionate fair
16 share calculation;

17
18 SV Increase_i = Service volume increase contributed by the eligible
19 improvement to roadway segment "i"

20
21 Cost_i = Adjusted cost of the improvement to segment "i".
22 Cost shall include all improvements and associated
23 costs, such as design, right-of-way acquisition,
24 planning, engineering, inspection, and physical
25 development costs directly associated with
26 construction at the anticipated cost in the year it will
27 be incurred.

28
29 For the purpose of determining proportionate fair share obligations, the County
30 shall determine improvement costs based upon the actual cost of the improvement
31 as obtained from cost estimates contained in the CIE, the Lake County
32 Transportation Construction Program or the FDOT Work Program. If
33 improvement cost estimates are not available, they shall be determined by the
34 jurisdiction maintaining the facility annually through an analysis of the costs by
35 cross section type, incorporating data from recent projects. In order to
36 accommodate increases in construction material costs, project costs shall be
37 adjusted as necessary.

38
39 D. If the County has accepted an improvement project proposed by the applicant,
40 then the value of the improvement shall be determined using one of the methods
41 provided in this section. Any improvement project proposed to meet the
42 applicant's fair share obligation must meet design standards of the jurisdiction
43 within which the majority of the planned improvements would be located for
44 locally maintained roadways and those of the FDOT for the state and federal
45 highway system.
46

1 E. If the County has accepted right-of-way dedication for the proportionate fair share
2 payment, credit for the dedication of the non-site related right-of-way shall be
3 valued on the date of the dedication at 120% of the most recent assessed value by
4 the Lake County Property Appraiser or, at the option of the applicant, by fair
5 market value established by an independent appraisal approved by the County and
6 at no expense to the County. The applicant shall supply a survey and legal
7 description of the land and a certificate of title or title search of the land to the
8 County at no expense to the County. If the estimated value of the right-of-way
9 dedication proposed by the applicant is less than the County estimated total
10 proportionate fair share obligation for that development, then the applicant shall
11 pay the difference. Prior to purchase or acquisition of any real estate or
12 acceptance of donations of real estate intended to be used for the proportionate
13 fair share, public or private partners should contact FDOT for essential
14 information about compliance with federal law and regulations.

15
16 **5.04.06 Impact Fee Credit for Proportionate Share Mitigation**

17
18 A. Proportionate fair share contributions shall be applied as a credit against impact
19 fees to the extent that the proportionate fair share mitigation is used to address the
20 same capital infrastructure improvements contemplated by the County's impact
21 fee ordinance. Applicants shall be eligible for impact fee credit for the portion of
22 their proportionate fair share payment that applies to a segment for which the
23 transportation impact fee is also being applied.

24
25 B. Impact fee credits for the proportionate fair share contribution will be determined
26 when the Proportionate Fair Share Agreement is executed. Impact fees owed by
27 the applicant will be reduced per the Proportionate Fair Share Agreement. If the
28 applicant's proportionate fair share obligation is less than the development's
29 anticipated transportation impact fee for the specific stage or phase of
30 development under review, then the applicant or its successor must pay the
31 remaining impact fee amount to the County and any other jurisdictions entitled to
32 collect impact fees, pursuant to the requirements of the applicable impact fee
33 ordinances.

34
35 C. The proportionate fair share obligation is intended to mitigate the transportation
36 impacts of a proposed development at a specific location. As a result, any
37 transportation impact fee credit based upon proportionate fair share contributions
38 for a proposed development cannot be transferred to any other location.

39
40 **5.04.07 Proportionate Fair Share Agreements**

41
42 A. If an applicant elects to make a proportionate fair share contribution to satisfy
43 transportation concurrency, a binding agreement between the applicant and the
44 County, and other affected jurisdictions as necessary, shall be executed in
45 accordance with the requirements of this section.

- 1 B. Upon approval of the Proportionate Fair Share Agreement by the Board of County
2 Commissioners, the applicant shall be provided with satisfactory Notice of
3 Capacity Determination. The satisfactory Notice of Capacity Determination shall
4 expire if the underlying Development Order expires, is revoked, or denied by the
5 County. Otherwise a satisfactory Notice of Capacity Determination shall expire if
6 an extension can no longer be granted for the underlying Development Order. An
7 expired satisfactory Notice of Capacity Determination shall be considered void,
8 and the applicant shall be required to reapply for a concurrency determination. If
9 the proposed development's impacts were the only impacts causing the potential
10 deficient operation of the facility, the specific project may be removed from the
11 CIE.
- 12
- 13 C. If the applicant agrees to cash payment of the proportionate fair share
14 contribution, payment is due in full prior to issuance of the final development
15 order. Once paid, contributions shall be non-refundable. If payment is submitted
16 more than six (6) months after the date of execution of the Agreement, the
17 proportionate fair share cost shall be recalculated at the time of payment based on
18 the best estimate of the construction cost of the required improvement, pursuant to
19 Section 5.04.05 and adjusted accordingly.
- 20
- 21 D. If the applicant agrees to construct transportation improvements as authorized by
22 the Agreement, all improvement must be completed prior to issuance of a final
23 development order, or as otherwise established in the Agreement. The Agreement
24 shall be accompanied by a security instrument sufficient to ensure the completion
25 of all required improvements. Any security instrument, in a form acceptable to
26 the County, shall be for at least 150% of the estimated cost of the improvements.
27 The security instrument shall be irrevocable and shall remain in effect until the
28 developer fully completes the required improvements.
- 29
- 30 E. If an applicant agrees to dedicate right-of-way, dedication must be completed
31 prior to issuance of the final development order.
- 32
- 33 F. Any requested change to a development order may be subject to additional
34 proportionate fair share contributions to the extent the change would generate
35 additional impacts that would require mitigation.
- 36
- 37 G. Applicants may submit a letter to withdraw from the Proportionate Fair Share
38 Agreement at any time prior to the execution of the agreement. The application
39 fee will be non-refundable.
- 40
- 41 H. The County may enter into Proportionate Fair Share Agreements with multiple
42 applicants for selected corridor improvements to a shared transportation facility.
- 43
- 44
- 45
- 46

1 **5.04.08 Appropriation of Fair Share Revenues**
2

- 3 A. Proportionate fair share revenues shall be placed in the appropriate project
4 account of the CIE, or as otherwise established in the terms of the Proportionate
5 Fair Share Agreement. At the discretion of the County, proportionate fair share
6 revenues may be used for operational improvements prior to construction of the
7 capacity project from which the proportionate fair share revenues were derived.
8
- 9 B. If a scheduled facility improvement is removed from the CIE, the revenues
10 collected for its construction may be applied toward the construction of another
11 improvement within the same corridor or sector that would mitigate the impacts
12 of development pursuant to the requirements of Section 5.04.03(C).
13
- 14 C. Where an impacted facility has been designated as a regionally significant
15 transportation facility on the Lake-Sumter MPO Regionally Significant Corridors
16 Map, the County may coordinate with other impacted jurisdictions and agencies
17 to apply proportionate fair share contributions to seek funding for improving the
18 impacted regional facility under the FDOT Transportation Regional Incentive
19 Program (TRIP). Proportionate fair share revenues may be used as the 50% local
20 match for funding under the FDOT TRIP. Such coordination shall be ratified by
21 the County through an interlocal agreement establishing a procedure for
22 earmarking of the developer contributions for this purpose.
23
- 24 D. When an applicant constructs a transportation facility that exceeds the applicant's
25 proportionate fair share obligation calculated under Section 5.04.05, the County
26 shall reimburse the applicant for the excess contribution using one or more of the
27 following methods:
28
- 29 1. An impact fee credit account may be established for the applicant in the
30 amount of the excess contribution. A portion of the credit may be
31 assigned to subsequent owners of the land to be developed, under terms
32 and conditions acceptable to the County. The credit must run with the land
33 and may not be assigned to the developer of any other parcel of property.
34
- 35 2. An account may be established for the applicant for reimbursing excess
36 contributions with proportionate fair share payments from future
37 applicants on the facility.
38
- 39 3. The County may compensate the applicant for the excess contribution
40 through payment or some combination of means acceptable to the County
41 and the applicant.
42

43 **Section 7. Severability.** If any section, sentence, clause, or phrase of the
44 Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then
45 said holding shall in no way affect the validity of the remaining portion of this Ordinance.
46

1 **Section 8. Inclusion in Code.** It is the intent of the Board of County
2 Commissioners that the provisions of this Ordinance shall become and be made a part of the
3 Lake County Code and that the sections of this Ordinance may be renumbered or relettered and
4 the word "ordinance" may be changed to "section", "article", or such other appropriate word or
5 phrase in order to accomplish such intentions.
6

7
8 **Section 9. Effective Date.** This ordinance shall become effective as provided for by
9 law.

10
11 Enacted this ____ day of _____, 2006.

12
13 Filed with the Secretary of State _____2006.

14
15 Effective _____.

16
17
18 ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF LAKE COUNTY, FLORIDA

19
20
21
22 _____
23 James C. Watkins, Clerk of the
24 Board of County Commissioners
25 of Lake County, Florida

_____, Chairman

This ____ day of _____, 2006

26
27 APPROVED AS TO FORM & LEGALITY:

28
29 _____
30 Sanford A. Minkoff
31 County Attorney
32
33
34