

ORDINANCE NO. 06-86

AN ORDINANCE OF THE TOWN OF MIAMI LAKES, FLORIDA, PERTAINING TO THE LAND DEVELOPMENT CODE; AMENDING DIVISION 10.1 THE TRANSPORTATION CONCURRENCY MANAGEMENT PROGRAM TO ADDRESS STATE STATUTORY REQUIREMENTS REGARDING THE PROPORTIONATE FAIR-SHARE MITIGATION METHODOLOGIES AND OPTIONS FOR TRANSPORTATION FACILITIES; ALL AS INCLUDED IN EXHIBIT "A" HEREIN; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Miami Lakes Town Council (the "Council") finds and determines that transportation capacity is a commodity that has a value to both the public and private sectors; and

WHEREAS, proportionate fair-share mitigation ("fair-share mitigation") allows developers to proceed under certain conditions, notwithstanding the failure of transportation concurrency, by contributing their proportionate fair-share of the cost of a transportation facility; and

WHEREAS, fair-share mitigation contributes to the provision of adequate public facilities for future growth and promotes a strong commitment to comprehensive facilities planning, thereby reducing the potential for moratoria or unacceptable levels of traffic congestion; and

WHEREAS, fair-share mitigation maximizes the use of public funds for adequate transportation facilities to serve future growth, and may, in certain circumstances, allow the Town of Miami Lakes to expedite transportation improvements by supplementing

funds currently allocated for transportation improvements in the Capital Improvements Element of the Comprehensive Plan; and

WHEREAS, fair-share mitigation is consistent with §163.3180(16), F.S., and supports Goal 8 of the Capital Improvements Element in the City’s Comprehensive Plan; and

WHEREAS, after conducting a properly noticed public hearing, the Town Local Planning Agency has recommended that the referenced regulations are consistent with the Town Comprehensive Plan; and

WHEREAS, after conducting a properly noticed hearing and considering the recommendations of the public, the Local Planning Agency and the Town staff, the Town Council wishes to adopt the regulations for inclusion in the Land Development Code; and

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:

Section 1. Recitals. Each of the above stated recitals are true and correct and are incorporated herein by this reference.

Section 2. Adoption of revised Transportation Concurrency Management Regulations. The Town Council hereby adopts revised Transportation Concurrency Management regulations, which include a newly created “Proportionate Fair-share Mitigation Program,” for inclusion in the Town Land Development Code. Such revised regulations are attached as Exhibit “A”¹ hereto and incorporated herein.

Section 3. Repeal of Conflicting Provisions. All provisions of the Code of the Town of Miami Lakes that are in conflict with this Ordinance are hereby repealed.

¹ In Exhibit A, additions are indicated by underlining; deletions are indicated by ~~striketrough~~.

Section 4. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Inclusion in the Code. It is the intention of the Town Council, and it is hereby ordained that the provision of this Ordinance shall become and made part of the Town of Miami Lakes, Florida, Code of Ordinances; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word “Ordinance” shall be changed to “Section” or other appropriate word.

Section 6. Effective Date. This Ordinance shall be effective upon adoption on second reading.

The foregoing Ordinance was offered by Vice Mayor Mary Collins, who moved its adoption on first reading. The motion was seconded by Councilman Roberto Alonso and upon being put to a vote, the vote was as follows:

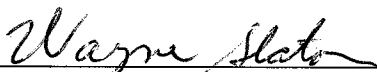
Councilmember Richard Pulido	yes
Councilmember Robert Meador, II	yes
Councilmember Michael Pizzi	yes
Councilmember Nancy Simon	yes
Councilmember Roberto Alonso	yes
Vice Mayor Mary Collins	yes
Mayor Wayne Slaton	yes

PASSED AND ADOPTED on first reading this 17th day of October, 2006.

The foregoing Ordinance was offered by Vice Mayor Mary Collins, who moved its adoption on second reading. The motion was seconded by Councilmember Nancy Simon, and upon being put to a vote, the vote was as follows:


Councilmember Richard Pulido	yes
Councilmember Robert Meador, II	yes
Councilmember Michael Pizzi	yes
Councilmember Nancy Simon	yes
Councilmember Roberto Alonso	yes
Vice Mayor Mary Collins	yes
Mayor Wayne Slaton	yes

PASSED AND ADOPTED on second reading this 21st day of November, 2006.



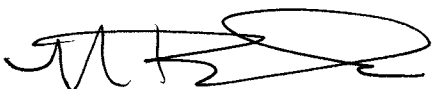
Wayne Slaton
MAYOR

ATTEST:



Debra E. Eastman, MMC
TOWN CLERK

Approved as to form and legality for the use
and benefit of the Town of Miami Lakes only:



Weiss, Serota, Helfman, Pastoriza, Cole & Boniske, P.A.
TOWN ATTORNEY

Division 10.1 Transportation Concurrency Management Program

A. Title.

This article shall be known as, and may be cited as, the “Town of Miami Lakes Transportation Concurrency Management Program.”

B. Legislative intent.

This article is intended to implement the comprehensive plan, by ensuring that development approved by the Town of Miami Lakes (the “Town”) shall not result in a reduction of roadway level of service below the standards contained in the Town of Miami Lakes Comprehensive Plan, as required by Chapter 163.3202(2)(g) of the Florida Statutes.

Nothing in this article shall be construed to be inconsistent or in conflict with the legislative intent of the adopted comprehensive plan and that legislative intent is hereby incorporated by reference and made a part of this article.

Nothing in this article shall limit or modify the rights of any person to complete any development that has been authorized as a development of regional impact pursuant to Chapter 380, Florida Statutes, or who has been issued a final development order, as defined in this article, prior to the adoption of this article, and where development has commenced and is continuing in good faith. Subdivisions or waivers of plat approved prior to July 1, 2005, and for which development has commenced and is continuing in good faith are hereby determined to be final development orders for purposes of this section. It is further determined that, for purposes of this section, development has commenced and is continuing in good faith if one of the following has occurred:

- (a) The applicant received prior tentative plat approval and received final plat approval within 180 days subsequent thereto, and has applied for a building permit within a period of 120 days following final plat approval;
- (b) The applicant has received a waiver of plat approval and has applied for a building permit within 120 days of approval; or
- (c) The Town approved a final development order prior to the effective date of this article.
- (d) The Town has approved a site plan and the applicant has applied for a building permit within 12 months of the site plan approval.
- (e) The applicant has received a vested rights determination from Miami-Dade County under Chapter 33, Section 2-114 of the County Code, or from the Town of Miami Lakes Town Council pursuant to Section 3.10 of the Town Land Development Code.

C. Definitions.

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

1. *Application for development permit* means an application submitted to the Town requesting issuance of a development permit.

2. *Background traffic* is the amount of future traffic growth that is not attributable to a particular committed project and is usually estimated by applying a percent growth factor.
3. *Capacity* means a quantitative measure of the ability of the roadway or public facility to provide for use of the roadway or public facility.
4. *Capital Improvements Element* means the Capital Improvements Element of the Town of Miami Lakes adopted Comprehensive Plan.
5. *Committed traffic* is all traffic for approved development agreements, development orders, or development permits that have received a concurrency reservation from the Town of Miami Lakes or other agency with the authority to grant reservations.
6. *Concurrency determination* means a statement issued by the Town Engineer upon request stating that there appears to be sufficient roadway capacity so that designated levels of service shall be adequate for the project for which the concurrency determination is issued. A concurrency determination reserves no roadway capacity and is in no way binding on the Town.
7. *Concurrency Management Database and Monitoring System Report (or "Concurrency Management Report")* means the technical administrative manual, adopted by reference in this article, which sets forth the details of administrative procedures and methodology for determinations of concurrency.
8. *Count location* is the location of a traffic counter on a specific roadway, as approved by the Town Engineer.
9. *Development* is any construction, structures, or alteration of the land surface, or use of land which requires authorization by the Town of Miami Lakes through issuance of a development order as defined in this article.
10. *Development agreement* is an agreement entered into between the Town and a developer for the purpose of assuring the Town that the developer shall provide required transportation facility capacity or other conditions of the development agreement. The term "development agreement" includes, but is not limited to, agreements authorized pursuant to Chapters 163.3220 and 380.032 of the Florida Statutes, both as amended.
11. *Development order (DO)* means any order granting, denying, or granting with conditions an application for a development permit.
12. *Final development order* means any final plat or waiver of plat approved subsequent to the adoption of this article; or any building permit authorizing construction of a new building, or the expansion of floor area, or the increase in the number of dwelling units contained in an existing building, or modifications to an existing building or site to accommodate a change in use for which a new certificate of use and occupancy are required; and any certificate of use or occupancy authorizing a change in the use or authorizing the initial use of a parcel or structure or portion thereof where there is no other final development order in effect.
13. *Funded and programmed* describes a roadway improvement project included in the current capital improvements budget for Town of Miami Lakes, the Transportation Improvement Program for the Miami-Dade Metropolitan

Planning Organization, or the Florida Department of Transportation Five-Year Work Program.

14. *Level of service (LOS) standard for roadways* refers to the standards for minimum acceptable levels of service for roadways contained in the Transportation Element of the Town of Miami Lakes Comprehensive Plan, as amended, usually measured by letter grades between A and F.
15. *Level of service (LOS) volume* is the maximum amount of traffic that can be accommodated at the adopted LOS standard, measured in vehicles per hour.
16. *Major thoroughfares* are:
 - a) All existing, proposed, or approved roadways that function or would function as major thoroughfares as determined by the Town Engineer based on consideration of the following criteria:
 - i. provides continuity of an existing roadway;
 - ii. provides connectivity to other links of the thoroughfare network;
 - iii. carries or is projected to carry a volume of at least 1,310 two-way peak hour trips;
 - iv. provides an opportunity for reducing vehicle miles traveled;
 - v. provides an alternative to a parallel thoroughfare network roadway such that the demand on the parallel roadway is decreased.
 - b) All proposed and approved roads that would, if built, function as arterials and major collectors during the buildout period of the proposed project as determined by the Town Engineer in accordance with accepted traffic engineering principles.
17. *Preliminary development order* means any approval for a rezoning, tentative plat, site plan, or other development order which is not a final development order.
18. *Programmed* means a roadway improvement project that is listed in the Capital Improvements Element (CIE). Such improvements are unfunded unless in the current year of the capital budget for the Town of Miami Lakes, the Transportation Improvement Program for the Miami-Dade Metropolitan Planning Organization, or the Florida Department of Transportation Five-Year Work Program.
19. *Programmed for construction* refers to a proposed roadway improvement project that is included in the Capital Improvements Element and scheduled for construction.
20. *Radius of development influence* is the distance, measured along roadways from the project's point of access to the roadway network, within which traffic from a proposed project may influence the level of service on the roadway.
21. *Reservation* means the act of setting aside a portion of available transportation or roadway capacity necessary to accommodate valid development orders.
22. *Roadway impact mitigation measures* includes all proposed measures, other than provision of services or facilities as defined herein, which will demonstrably reduce the impact of the prospective development on said services or facilities.

23. *Roadway improvement project* includes all roadway or transportation projects within the Town of Miami Lakes that propose to provide a capacity improvement to a particular link, corridor, or intersection.
24. *Significantly impacted roadway* is one on which the amount of traffic assigned from a proposed project is greater than 1 percent of the adopted level of service volume.
25. *Site plan approval* means a site plan approved by the Town which is subject to concurrency review. A site plan approval is not a final development order.
26. *Town Engineer* refers to the person(s) responsible for the management of the Town of Miami Lakes concurrency program and review of transportation concurrency applications, as assigned by the Town Manager or designee.
27. *Transportation Improvement Program (TIP)* refers to the official document adopted by the Miami-Dade County Metropolitan Planning Organization (MPO) specifying proposed transportation improvements to be implemented over the coming five years.
28. *Under construction* is defined by the date the applicable construction contract is executed for a public facility or roadway improvement project by the appropriate state, regional, county, or municipal provider. When the improvement is the responsibility of the developer, approval of such permits shall require proof of sufficient bonding or letter of credit securing construction.
29. *Strategic Intermodal System* means, as defined in §339.61, Fla. Stat., a statewide system of high priority transportation facilities, including the state's largest and most significant commercial service airport, spaceport, deepwater seaport, freight rail terminal, passenger rail and intercity bus terminals, rail corridors, waterways and highways.

D. Transportation concurrency management.

- (a) Level of service standards.
 Level of service (LOS) is measured based on the latest edition of the Highway Capacity Manual and the latest edition of the Florida Department of Transportation *Q/LOS Handbook*. The LOS standard is the minimum acceptable peak period operating LOS for all Town, County, and State roads in the Town of Miami Lakes. The following LOS standards for the Town, County, and State roads, as defined in the Town of Miami Lakes Comprehensive Plan, are:
 1. The minimum acceptable LOS for all roads within the Town east of the Palmetto Expressway (State Road 826) shall be LOS "E".
 2. The minimum acceptable LOS for all major roadways west of the Palmetto Expressway (SR 826) shall be LOS "D" or better, except the minimum acceptable LOS for state urban minor arterial roads shall be LOS "E".
 3. Where public transit service exists with service headways of 20 minutes or less located less than one-half mile from a transit corridors, the minimum acceptable LOS for all roadways in Town of Miami Lakes shall be LOS "E".

- (b) Transportation concurrency monitoring.
In order to ensure that adequate transportation facilities are available concurrent with the impacts of development, the Town shall establish the following transportation concurrency monitoring and review practices.
1. Methods for monitoring existing LOS conditions.
 - a. Level of service determinations for the Town of Miami Lakes' major thoroughfares, including arterial and collector roads, hereinafter referred to as roadways, will be made by the Town Engineer. Monitoring should be by the Town Engineer based on his acceptance of traffic count data in the Town of Miami Lakes, available from Miami-Dade County, or available from the Florida Department of Transportation, and certified data provided by registered professional traffic engineers, all of which will have been collected in the Town of Miami Lakes.
 - b. Roadway levels of service shall be based on the procedures, guidelines, and methodology detailed in the Town of Miami Lakes' *"Concurrency Management Database and Monitoring System Report"* (or *"Concurrency Management Report"* or *"Report"*). The *"Concurrency Management Report"* shall be developed by the Town Engineer. The Report shall include a list of count station locations, level of service standards, existing traffic, committed traffic, and available traffic, and shall graphically depict the current peak-period LOS for arterial and collector roadways in Town of Miami Lakes including the volume/capacity ratios for all such roads operating at LOS D, E, or F.
 - c. The Town Engineer shall develop and maintain the Concurrency Management Report and update periodically as significant new information becomes available, but at least annually.
- (c) Transportation concurrency review.
In order for a proposed project to meet concurrency all significantly impacted roadways (greater than 1 percent of the roadway's level of service volume) within the project's radius of development influence must operate within the adopted level of service standard.
1. Levels of transportation concurrency review.
 - a. Concurrency determination.
A determination by Town Engineer as to whether capacity for a particular project appears to exist. The determination reserves no capacity and is in no way binding upon the Town.
 - b. Concurrency exemption.
A determination by Town Engineer as to whether a proposed project is exempt from traffic concurrency pursuant to the terms of this article.
 - c. Concurrency reservation.

A determination by Town Engineer as to a proposed project in conjunction with a development agreement or final development order, evidencing that all available transportation facility capacity to serve a proposed project is available and has been reserved.

d. Conditional reservation.

A determination by Town Engineer as to a proposed project in conjunction with a development agreement or final development order, evidencing that (1) all available transportation facility capacity to serve a proposed project has been reserved, but such capacity is not adequate to serve the proposed project; (2) the additional transportation facility capacity needed for the proposed project may be assured by an executed development agreement or a proportionate fair-share mitigation agreement, and (3) a request by the applicant has been made for consideration and approval by the Town Council of a development agreement or a proportionate fair-share mitigation agreement concurrent with an application for a final development order.

2. Rules of general applicability.

It is the policy of the Town that no development orders shall be issued unless adequate transportation facilities are available to serve the project which is the subject of the final development order. In order to ensure that adequate transportation facilities are available concurrent with the impacts of development, the procedures of this section shall govern the issuance of rezonings, site plan approvals, and other development orders.

- a. An application for a concurrency determination, a certification of exemption, a concurrency reservation, or a conditional concurrency reservation may be submitted at any time during the year.
- b. A certification of concurrency exemption, a concurrency reservation, or a conditional concurrency reservation shall apply only to the parcel and project as described in the application and shall not be transferable or assignable to any other project. However, the concurrency reservation may be transferred upon sale of the property but shall only apply to the project presented in the application.
- c. A certification of concurrency exemption, a concurrency reservation, or a conditional concurrency reservation is initially valid for one year, during which time an application for a final development order must be applied for as to the project for which the exemption, reservation, or conditional reservation was approved. If a final development order is approved for a project for which an exemption, reservation, or conditional reservation was issued, the applicable exemption, reservation, or conditional reservation is valid for the life of the final development order.
- d. A concurrency determination, a certification of exemption, a concurrency reservation, or a conditional concurrency reservation

shall apply only to the specific land uses, densities, and intensities based on information provided in the application, and where applicable, the final development order or site plan approval. All applicants, to the extent required by the Town Engineer, shall submit applications for entire projects. An applicant may not reserve more capacity than that which is reasonably required for a project.

3. Exemptions.

- a. The following types of development shall be exempt from the requirements of this article, but only to the extent stated in an applicable certification of exemption provided by the Town Engineer:
 - i. An alteration to a project which is the subject of a final development order which does not create any additional impacts on transportation facilities;
 - ii. The construction of accessory buildings or structures which do not create additional impacts on public facilities;
 - iii. The replacement of (1) an existing dwelling unit when no additional dwelling units are created, or (2) an existing non-residential structure when the type of use is unchanged and no additional square footage is added; and provided there remains an equivalent traffic impact;
 - iv. Up to five single-family homes or an apartment with four units or less, to be constructed on a legal platted lot of record existing prior to January 1, 2005, within any 12-month period by the same property owner or developer.
- b. A development which meets the following *de minimis* impact thresholds is also exempt from the requirements of this article, but only to the extent stated in an applicable certification of exemption provided by the Town Engineer:
 - i. An impact that would not affect more than one percent of the maximum volume at the adopted level of service of the affected transportation facility as determined by the Town Engineer.
 - ii. An impact for which the sum of existing roadway volumes and the projected volumes from approved projects on a transportation facility does not exceed 110 percent of the maximum volume at the adopted level of service of the affected transportation facility.
 - iii. An impact that would not exceed the adopted level of service standard of any affected designated hurricane evacuation routes.
- c. Upon application for exemption for a project pursuant to the terms of this section, the Town Engineer shall issue a certification of exemption.

4. Previously Vested/Reserved Trips.
 - a. Any development project that has a valid traffic concurrency reservation, where the project has continued in good faith toward the completion, or any development which has received concurrency approval from Miami-Dade County Public Works prior to the effective date of this article shall be considered vested for the period of the Miami-Dade County reservation or 12 months, whichever occurs first. Two extensions of no more than three months each (or a total of six months) may be granted by the Town Council.
5. Concurrency Application.
 - a. A pre-application conference is required for all proposed projects, to be held at least two weeks prior to the submittal of a concurrency reservation application, in order to avoid unnecessary delays or confusion in the application and review processes. An informal meeting will be arranged by the applicant with the Planning Department, the Town Engineer, and other appropriate staff, as necessary, to discuss the proposal and to review any preliminary plans the applicant may wish to present. The pre-application conference will be utilized to determine any additional traffic impact analysis requirements that will be necessary based upon the scope of the proposed project.
 - b. The concurrency reservation application requirements may be modified by the Town Engineer. At a minimum, the concurrency reservation applications will include a project address or project location description, a property control or folio identification number, the project acreage, a list of specific uses, densities, and intensities, any proposed phasing, the owner and agent contact information, identification of the level of concurrency review requested, and the traffic impact analysis as required in paragraph d. below.
 - c. For requests for concurrency determinations, a traffic impact analysis is not required; however, the applicant may elect to submit a traffic impact analysis certified by a registered professional traffic engineer, at the applicant's own expense. Whenever a traffic impact analysis, properly prepared by a registered professional traffic engineer, is submitted in conjunction with an application to the Town Engineer, that impact analysis shall be utilized for purposes of the level of service concurrency determination, as deemed appropriate by the Town Engineer.
 - d. The traffic impact analysis shall be certified by a registered professional traffic engineer, and shall include the following minimum analysis as well as any additional analysis identified at the pre-application conference:
 1. Trip generation: AM/PM peak hour analysis, internalization, and pass-by capture rates;

2. Trip assignment: may be determined utilizing the following methods:
 - i. FSUTMS modeling by applicant;
 - ii. Accepted professional traffic engineering trip assignment, as approved by the Town; and
 - iii. Miami-Dade County cardinal distribution, as approved by the Town Engineer; (use of the cardinal distribution may require adjustment based upon project and associated traffic issues);
 3. Access analysis including driveways, turn lanes, and signalized intersections within one-half mile of the project location;
 4. Analysis of all signalized intersections on links that provide direct access to the project site and which have an impact of at least two percent of the adopted level of service threshold.
 5. Other analysis techniques proposed must be substantiated by the applicant and found by the Town Engineer to be acceptable. For example, an applicant may choose to utilize either the latest edition of the Highway Capacity Manual (HCM), the generalized roadway levels of service in the latest edition of the FDOT *Quality/Level of Service (Q/LOS) Handbook*, or the roadway specific levels of service developed by the most recent version of the FDOT ARTPLAN to present an alternative to the roadway levels of service established by the Town of Miami Lakes.
 6. Peak trip generation assumptions may be adjusted if the assumptions are submitted by the applicant and found by the Town Engineer to be acceptable, and the applicant demonstrates that effective measures will be employed that will cause the peak traffic generation characteristics of the proposed development to be significantly lower than the normal project of the same type on which the peak trip generation factors are based.
6. Methods for evaluating development impacts.
- a. Table 1 represents the minimum radius of development influence for the specific volume of the proposed project's net trips. Development shall be evaluated for impact based upon the radius of development influence.

Table 1: Minimum Radius of Development Influence

Net External Two-Way Peak Hour Trip Generation (# of trips)			Distance
1	thru	20	Directly Accessed Link(s) of First Accessed Major Thoroughfare(s)
21	thru	50	0.5 miles
51	thru	100	1 mile
101	thru	500	2 miles
501	or	more	3 miles

- b. A development's impact on the roadway system shall be determined by using the trip generation rates set forth in the most recent edition of Trip Generation published by the Institute of Transportation Engineers (ITE), Washington, D.C., or other professionally accepted trip generation rates. It shall include evaluation for its direct effect on an arterial or collector roadway adjacent to the point(s) of project access.
 - c. Any applicable transportation facility improvements, committed or programmed, will be included to reflect the additional roadway capacity that will become available within three years of the date of an approved development order.
 - d. The peak traffic assignment of the proposed development shall be added to the existing traffic, plus background traffic and any committed traffic to calculate the total traffic. To determine conformance with the LOS standard, this total traffic cannot be greater than the existing and/or programmed adopted level of service volume for the roadway.
 - e. For roadways where an applicable traffic count does not exist or recent count has not been conducted within six months, the applicant must provide a count certified by a registered professional traffic engineer at the applicant's expense.
7. Concurrency review process.
- a. Preliminary development orders.
 - 1. Preliminary development orders do not directly authorize development to commence or are so conceptual that they do not allow an accurate assessment of a project's impact on transportation facilities. Preliminary development orders require subsequent final development orders which are subject to concurrency review. Preliminary development orders may not apply for or receive a certification of exemption, a concurrency reservation, or a conditional concurrency reservation, but a concurrency determination may be requested.
 - 2. Staff shall include as part of the preliminary development order a condition that the issuance of any subsequent final development order is contingent upon the applicant obtaining a certification of exemption, a concurrency reservation, or a conditional concurrency reservation.
 - b. All applicants for final development orders shall submit with such application a certification of exemption, a concurrency reservation, or a conditional concurrency reservation.
 - c. An application for either a concurrency determination, a certification of exemption, a concurrency reservation, or a conditional concurrency reservation shall be submitted to the Town Engineer, on such form as is promulgated by the Town. The Town Engineer shall charge a review fee based upon the transportation

concurrency fee schedule adopted by resolution of the Town Council. The application shall consist of such information as required by the Town Engineer.

- d. After receipt of an application, the Town Engineer shall determine whether it is complete within 14 calendar days after its submission. If it is determined that the application is not complete, written notice shall be forwarded to the applicant specifying the deficiencies. The Town Engineer shall take no further action on the application unless the deficiencies are remedied.
- e. Within 45 calendar days after receipt of a complete application, the Town Engineer shall either conclude the application is approved or denied. If denied, the denial shall be in writing and shall include reasons for denial. In the event that the Town review of the concurrency application reveals level of service deficiencies, the Town shall determine whether there is a financial or other legally binding commitment to ensure the public facilities necessary to correct the anticipated deficiency will be in place concurrent with the impacts of the proposed development. If the Town and/or a developer are unable to provide such assurances, the project shall be denied.
- f. If a concurrency reservation is approved, the approval shall require the payment of a fee for reserving capacity, which fee must be paid within 10 calendar days of the issuance of the concurrency reservation, or the reservation shall be canceled. If a conditional concurrency reservation is approved, the approval shall require the payment of a fee for reserving capacity, which fee must be paid within 10 calendar days of the Town Council's approval of the development agreement or proportionate fair-share mitigation agreement submitted with the conditional concurrency reservation, or the conditional concurrency approval shall be canceled. In either case, the final development order shall not be issued until the capacity reservation fee is paid. Transportation facility capacity shall be granted on a first-come, first-serve basis, determined as of the date and time a concurrency reservation or conditional concurrency reservation is issued.
- g. Appeals.
 1. An applicant may appeal any final decision issued pursuant to this article by the Town Engineer by filing a written appeal to the Town Clerk's office within 14 calendar days after such decision. The Town Council shall hear such appeal at a public hearing with reasonable notice to the applicant and shall issue its opinion within a reasonable time after such hearing.
 2. The Town Council's decision shall be final for the purpose of administrative appeals, and an applicant may thereafter appeal the Town Council's decision to the circuit court having jurisdiction over the Town.

3. All appellate decisions shall be based upon the criteria and standards contained in this article.
4. Any appeal provisions already established in the Town of Miami Lakes Code of Ordinances which are in conflict with provisions in this section shall take precedence.

E. Fee schedule.

A schedule of fees covering the cost of the concurrency management program shall be established by resolution of the Town Council and maintained by the Town Clerk. No application, permit, or receipt shall be issued until the appropriate fee is paid.

F. Transportation Proportionate Fair-Share Mitigation.

In order to establish a method whereby the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors, there shall be a program known as the Transportation Proportionate Fair-Share Mitigation Program (the "Fair-Share Mitigation Program"), as required by and in a manner consistent with §163.3180(16), Fla. Stat. The Fair-Share Mitigation Program shall apply to all developments in the Town that have been notified of a lack of capacity to satisfy transportation concurrency, including transportation facilities maintained by the Florida Department of Transportation (the "FDOT") or another government agency which are relied upon for concurrency determinations. The Proportionate Fair-Share Program does not apply to developments of regional impact (DRIs) using proportionate share under §163.3180(12), Fla.Stat., or to developments exempted from concurrency as provided in section D(c)3 of this ordinance.

(a) General Requirements.

1. An applicant may propose to satisfy the transportation concurrency requirements of the Town by making a proportionate fair-share contribution only if the following requirements are met:

a. The proposed development is consistent with the comprehensive plan and applicable land development regulations; and

b. The five-year schedule of capital improvements in the Town's Capital Improvements Plan (the "CIP") includes a transportation improvement(s) that, upon completion, will satisfy the requirements of the Town's transportation concurrency management system (the "CMS"). The provisions of subsection F(a)2 may apply if a project or projects needed to satisfy concurrency are not presently contained within the local government CIP.

2. The Town, in its sole discretion, may choose to allow an applicant to satisfy transportation concurrency through the Fair-Share Mitigation Program by contributing to an improvement that, upon completion, will

satisfy the requirements of the Town's transportation CMS, but is not contained in the five-year schedule of capital improvements in the CIP, where the following conditions are met:

a. The Town adopts, by resolution or ordinance, a commitment to add the improvement to the five-year schedule of capital improvements in the CIP no later than the next regularly scheduled update. To qualify for consideration under this section, the proposed improvement must be reviewed by the Town Council, and determined to be financially feasible pursuant to §163.3180(16) (b) 1, Fla.Stat., consistent with the comprehensive plan, and in compliance with the provisions of this ordinance. Financial feasibility for this section means that additional contributions, payments or funding sources are reasonably anticipated during a period not to exceed 5 years to fully mitigate impacts on the transportation facilities.

b. If the funds allocated for the five-year schedule of capital improvements in the Town's CIP are insufficient to fully fund construction of a transportation improvement required by the CMS, the Town may still enter into a binding proportionate fair-share agreement with the applicant authorizing construction of that amount of development on which the proportionate fair-share is calculated if the proportionate fair-share amount in such agreement is sufficient to pay for one or more improvements which will, in the opinion of the governmental entity or entities maintaining the transportation facilities, significantly benefit the impacted transportation system. The improvement or improvements funded by the proportionate fair-share component must be adopted into the five-year capital improvements schedule at the next annual capital improvements update.

c. Any improvement project proposed to meet the developer's fair-share obligation must meet applicable design standards of the jurisdiction which controls.

d. It shall be the applicant's sole responsibility to make a determination what improvement must to be made to satisfy concurrency requirements. Such determination shall be in a form consistent with the CMS and shall be reviewed by the Town for adequacy. It shall be in the Town's sole discretion whether the requested addition to the CIP shall be added.

(b) Intergovernmental Coordination.

Pursuant to policies in the Intergovernmental Coordination Element of the Town's comprehensive plan and applicable policies in the Strategic Regional Policy Plan for South Florida, the Town shall coordinate with affected jurisdictions, including FDOT and Miami-Dade County, regarding mitigation to impacted facilities not under the jurisdiction of the local government receiving the application for proportionate fair-share mitigation. An interlocal agreement may be established with other affected jurisdictions for this purpose.

(c) Application Process.

1. Upon notification of a lack of capacity to satisfy transportation concurrency, the applicant shall also be notified in writing of the opportunity to satisfy transportation concurrency through the Fair-Share Mitigation Program.

2. Prior to submitting an application for a proportionate fair-share agreement, a pre-application meeting shall be held to discuss eligibility, application submittal requirements, potential mitigation options, and related issues. If the impacted facility is on the Strategic Intermodal System ("SIS"), then the FDOT or any other affect governmental entity will be notified and invited to participate in the pre-application meeting.

3. Eligible applicants shall submit an application to the Town that includes an application fee of and the following:

a. Name, address and phone number of owner(s), developer and agent;

b. Property location, including parcel identification numbers;

c. Legal description and survey of property;

d. Project description, including type, intensity and amount of development;

e. Phasing schedule, if applicable;

f. Description of requested proportionate fair-share mitigation method(s);

g. Copy of concurrency application;

h. Traffic impact analysis; and

i. Proposed draft proportionate fair-share mitigation agreement.

4. The director of Planning and Zoning shall review the application and certify that the application is sufficient and complete within 20 business days. If an application is determined to be insufficient, incomplete or inconsistent with the general requirements of the Fair-Share Mitigation Program as indicated in subsection F(a), then the applicant will be notified in writing of the reasons for such deficiencies within 20 business days of submittal of the application. If such deficiencies are not remedied by the applicant within 45 days of receipt of the written notification, then the application will be deemed abandoned. The director may, in his or her sole discretion and upon a showing of good cause, grant an extension of time not to exceed 60 calendar days from the date of the request to cure such deficiencies, provided that the applicant has shown good cause for the extension and has taken reasonable steps to effect a cure.

5. Pursuant to §163.3180(16)(e), Fla. Stat., proposed proportionate fair-share mitigation for development impacts to facilities on the SIS requires the concurrency of the FDOT. The applicant shall submit evidence of an agreement between the applicant and the FDOT or any other applicable government agency for inclusion in the proportionate fair-share agreement.

6. When an application is deemed sufficient, complete, and eligible, the applicant shall be advised in writing and a proposed proportionate fair-share obligation and binding agreement will be prepared by the applicant with direction from the Town and delivered to the appropriate parties for review, including a copy to the FDOT if on a SIS facility or County if on a County road, no later than 60 days from the date at which the applicant received the notification of a sufficient application and no fewer than 14 days prior to the Council meeting when the agreement will be considered.

7. The Town shall notify the applicant regarding the date of the Council meeting when the development proposal, including the proportionate fair-share mitigation agreement executed by the developer, will be considered for final approval. No proportionate fair-share agreement will be effective until approved by the Council.

(d) Determining Proportionate Fair-Share Obligation.

1. Proportionate fair-share mitigation for concurrency impacts may include, without limitation, separately or collectively, private funds, contributions of land, and construction and contribution of facilities.

2. A development shall not be required to pay more than its proportionate fair-share. The fair market value of the proportionate fair-share mitigation

for the impacted facilities shall not differ regardless of the method of mitigation.

3. The methodology used to calculate an applicant's proportionate fair-share obligation shall be as provided for in Section 163.3180 (12), Fla. Stat., as follows:

"The cumulative number of trips from the proposed development expected to reach roadways during peak hours from the complete build out of a stage or phase being approved, divided by the change in the peak hour maximum service volume (MSV) of roadways resulting from construction of an improvement necessary to maintain the adopted LOS, multiplied by the construction cost, at the time of developer payment, of the improvement necessary to maintain the adopted LOS."

OR

Proportionate Fair-Share = $\sum [(\text{Development Trips}) / (\text{SV Increase})] \times \text{Cost}$

Where:

Development Trips_i = Those trips from the stage or phase of development under review that are assigned to roadway segment "i" and have triggered a deficiency per the concurrency management system;

SV Increase_i = Service volume increase provided by the eligible improvement to roadway segment "i" per section F(a);

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

4. For the purposes of determining proportionate fair-share obligations, the Town shall determine improvement costs based upon the actual cost of the improvement as obtained from the CIP, the MPO Transportation Improvement Program or the FDOT Work Program. Where such information is not available, improvement cost shall be determined using one of the following methods:

a. If the Town has accepted an improvement project proposed by the applicant, then the value of the improvement shall be based on an

engineer's certified cost estimate provided by the applicant and approved by the Town's public works director.

b. If the Town has accepted a dedication of property for public purposes for the proportionate fair-share payment, credit for the dedication of the non-site related right-of-way shall be valued on the date of the dedication at 120 percent of the most recent assessed value by the County property appraiser or, at the option of the applicant, by fair market value established by an independent appraisal approved by the Town and at no expense to the Town. The applicant shall supply a drawing and legal description of the land and a certificate of title or title search of the land to the Town at no expense to the Town. If the estimated value of the right-of-way dedication proposed by the applicant is less than the Town estimated total proportionate fair-share obligation for that development, then the applicant must also pay the difference. Prior to purchase or acquisition of any real estate or acceptance of donations of real estate intended to be used for the proportionate fair-share, public or private partners should contact the FDOT for essential information about compliance with federal law and regulations.

(e) *Impact Fee Credit for Proportionate Fair-Share Mitigation.*

1. Where mitigation is occurring on County roads, proportionate fair-share contributions shall be applied as a credit against impact fees to the extent that all or a portion of the proportionate fair-share mitigation is used to address the same capital infrastructure improvements contemplated by the County's impact fee ordinance.

2. Impact fee credits for the proportionate fair-share contribution will be determined when the transportation impact fee obligation is calculated for the proposed development. Impact fees owed by the applicant will be reduced per the Proportionate Fair-Share Agreement as they become due per the County's impact fee ordinance. If the applicant's proportionate fair-share obligation is less than the development's anticipated road impact fee for the specific stage or phase of development under review, then the applicant or its successor must pay the remaining impact fee amount to the County pursuant to the requirements of the County impact fee ordinance.

3. The proportionate fair-share obligation is intended to mitigate the transportation impacts of a proposed development at a specific location. As a result, any road impact fee credit based upon proportionate fair-share contributions for a proposed development cannot be transferred to any other location unless provided for within the County's impact fee ordinance.

(f) Proportionate Fair-Share Agreements.

1. Upon the applicant's execution of a proportionate fair-share agreement the applicant shall receive a determination that the developer has satisfied concurrency requirements. Should the applicant fail to apply for a development permit within 12 months of the execution of the Agreement, then the fair share agreement shall be considered null and void, and the applicant shall be required to reapply.
2. Payment of the proportionate fair-share contribution is due in full prior to issuance of the final development order or recording of the final plat and shall be nonrefundable. If the payment is submitted more than 12 months from the date of execution of the Agreement, then the proportionate fair-share cost shall be recalculated at the time of payment based on the best estimate of the construction cost of the required improvement at the time of payment, pursuant to section (d) above and adjusted accordingly.
3. All developer improvements authorized under this ordinance must be completed prior to issuance of a building permit, or as otherwise established in a binding agreement that is accompanied by a security instrument that is sufficient to ensure the completion of all required improvements. Any required improvements shall be completed before issuance of building permits or certificates of occupancy.
4. Dedication of necessary property for public purposes for facility improvements pursuant to a proportionate fair-share agreement must be completed prior to issuance of the final development order or recording of the final plat.
5. Any requested change to a development project subsequent to a development order may be subject to additional proportionate fair-share contributions to the extent the change would generate additional traffic that would require mitigation.
6. Applicants may submit a letter to withdraw from the proportionate fair-share agreement at any time prior to the execution of the agreement. The application fee and any associated advertising costs to the Town will be nonrefundable.
7. The Town may enter into proportionate fair-share agreements for selected corridor improvements to facilitate collaboration among multiple applicants on improvements to a shared transportation facility.
8. Proportionate fair-share agreements shall contain a provision setting forth the amount of impact fee credit if applicable.

(g) Appropriation of Fair-Share Revenues.

1. Proportionate fair-share revenues shall be placed in the appropriate project account for funding of scheduled improvements in the Town's CIP, or as otherwise established in the terms of the proportionate fair-share agreement. At the discretion of the Town, proportionate fair-share revenues may be used for operational improvements prior to construction of the capacity project from which the proportionate fair-share revenues were derived. Proportionate fair-share revenues may also be used as the 50% local match for funding under the FDOT Transportation Regional Incentive Program.

2. In the event a scheduled facility improvement is removed from the CIP, then the revenues collected for its construction may be applied toward the construction of another improvement within that same corridor or sector that would mitigate the impacts of development pursuant to the requirements of subsection F(a)2b.