

ORDINANCE NO. 1749

AN ORDINANCE OF THE CITY OF OVIEDO, FLORIDA AMENDING CERTAIN PROVISIONS OF PART II – CODE OF ORDINANCES, CHAPTER 28 – IMPACT FEES AND MOBILITY FEES BY PUBLIC FACILITY; RELATING TO THE ADOPTION OF A MOBILITY PLAN AND MOBILITY FEE SCHEDULE; PROVIDING FOR IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND SCRIVENERS ERRORS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section (1)(g) 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, micro 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 has adopted a mobility fee system, based on the multimodal improvements 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 no longer collect City transportation impact fees from new development and redevelopment within the City; and

WHEREAS, the City intends to no longer collect County mobility fees effective upon adoption of this Ordinance, from new development and redevelopment within the City; and

WHEREAS, the City intends to replace its transportation concurrency and transportation impact fee system, with the adopted mobility fee system consistent with the requirements of Section 163.3180(5)(i), Florida Statutes; and

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

WHEREAS, the adopted 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 person capacity as well as considerations of the impact of new development on overall mobility within the City, including unincorporated enclaves, and within incorporated and unincorporated areas adjacent to the City; and

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

WHEREAS, imposition of a mobility fee, requiring future development and growth within the City to contribute its fair share of the cost of extraordinary growth-necessitated multimodal transportation system 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 amount necessary to offset the demand on multimodal person capacity and facilities generated by new development and redevelopment; 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 Council has determined that the adopted mobility fee will help to preserve and enhance the rational nexus between the need for multimodal person travel demands generated by new development and redevelopment in the City and the mobility fees imposed on that development based on the multimodal improvements established in the mobility plan; and

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

WHEREAS, the City may choose to set aside a percentage of mobility fees collected and deposited to fund a pro-rata share of improvements to Seminole County roads within the City's related mobility fee benefit area, and expend them for the purposes set forth herein; and

WHEREAS, the City has adopted the City of Oviedo 2045 Mobility Plan & Mobility Fee Technical Report dated September 2023 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 mobility plan and mobility fee adopted will help to preserve and enhance the rational nexus between the extraordinary increase in multimodal person travel demands generated by new development and redevelopment in the City, and the mobility fees imposed on that development and redevelopment to fund multimodal improvements on City, County, and State right-of-way within and adjacent to the City in the mobility plan to address that demand; 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, City Council has determined that the implementation of the full mobility fee as set forth in this Ordinance shall occur as of the effective date established upon adoption of this Ordinance as the City has complied with the requirements set forth in Section 163.31801(6)(g), Florida Statutes, based upon the findings of extraordinary circumstances in the study entitled, "City of Oviedo 2045 Mobility Plan & Mobility Fee Extraordinary Circumstances Study," prepared by NUE Urban Concepts, LLC, and dated April 2024, which, among other things, expressly demonstrates extraordinary circumstances necessitating the need to exceed the phase-in limitations of the fully calculated mobility fees imposed by Section 163.31801(6)(a) through (d), Florida Statutes; and

WHEREAS, the City Council has noticed, advertised, scheduled, and held public workshops and hearings in compliance with Florida Statutes with respect to enactment of this proposed Ordinance; and

WHEREAS, the City Council has determined that it is advisable and in the public interest to enact this Ordinance and implement the proposed Mobility Plan and Mobility Fee and to amend the City's Code of Ordinances to include the adopted Mobility Plan and Mobility Fee Schedule; and

WHEREAS, for purposes of this Ordinance, underlined type shall constitute additions to the original text, *** shall constitute ellipses to the original text, and strikethrough --- shall constitute deletions to the original text.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF OVIEDO, FLORIDA, AS FOLLOWS

SECTION 1. LEGISLATIVE FINDINGS AND INTENTS.

(a) The City Council of the City of Oviedo hereby adopts and incorporates into this Ordinance the City Council agenda memorandum relating to this Ordinance No. 1749 as well as the recitals (whereas clauses) contained within this Ordinance.

(b) The City of Oviedo has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance.

(c) The City Council has determined that the implementation of the full mobility fee as set forth in this Ordinance shall occur upon adoption of this Ordinance as the City has complied with the requirements set forth in Section 163.31801(6)(g), Florida Statutes, as City Council has adopted the findings of extraordinary circumstances in the study entitled, "City of Oviedo Mobility Fee Finding of Extraordinary Circumstances," prepared by NUE Urban Concepts, LLC, and dated April 2024, which, among other things, expressly demonstrates extraordinary circumstances necessitating the need to exceed the phase-in limitations of the fully calculated mobility fees imposed by Section 163.31801(6) (a) through (d), Florida Statutes.

SECTION 2. AMENDMENT TO PART II, CHAPTER-28 – IMPACT FEE AND MOBILITY FEES BY PUBLIC FACILITY; CODE OF ORDINANCES OF OVIEDO, FLORIDA. Article II, Chapter 28 entitled, "Impact Fee by Public Facility," of the Code of Ordinances of Oviedo, Florida, is hereby amended in its entirety to read as set forth in Exhibit "1" attached hereto and made a part hereof.

SECTION 3. IMPLEMENTING ADMINISTRATIVE ACTIONS. The City Manager, or designee, is hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions to bring into effect the provisions of this Ordinance including, but not limited to, the promulgation and adoption of rules and forms.

SECTION 4. SAVINGS; EFFECT OF ORDINANCE. The prior actions of the City of Oviedo in terms of the matters relating to the Mobility Plan and Mobility Fee Schedule, as well as any and all actions and activities of the City pertaining thereto or of an associated nature, are hereby ratified and affirmed.

SECTION 5. CODIFICATION; SCRIVENER'S ERRORS.

(a). Exhibit "1" referenced in Section 2 of this Ordinance shall be codified and all other sections shall not be codified.

(b). The sections, divisions and provisions of this Ordinance may be renumbered or re-lettered as deemed appropriate by the Code codifier.

(c). Typographical errors and other matters of a similar nature that do not affect the intent of this Ordinance, as determined by the City Clerk and City Attorney, may be corrected with the endorsement of the City Manager, or designee, without the need for a public hearing.

SECTION 6. CONFLICTS. All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 7. SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 8. EFFECTIVE DATE. This Ordinance takes effect as of close of business on December 16, 2024.

FIRST READING: August 19, 2024

SECOND READING: September 16, 2024

PASSED AND ADOPTED this 16th day of September, 2024.

MEGAN SLADEK
MAYOR of the City of Oviedo, Florida

ATTEST:

ELIANNE RIVERA
CITY CLERK