

DIVISION 5. TRANSPORTATION FACILITIES IMPACT FEE

Subdivision I. In General

Sec. 58-403. Declarations.

(a) The North Port city commission hereby finds and declares that:

(1) Population growth in the City of North Port, Florida, has increased during the 1990's, straining the adequacy of existing sources of funds to provide transportation facilities to meet the demands created by new development.

(2) The revised and updated comprehensive plan for the city, adopted in November 1997, indicates that this growth will continue throughout the 1990's and will place significant demands on the city to provide transportation facilities to support new development.

(3) The comprehensive plan, including the capital improvements element (CIE), was prepared as authorized and required by the Local Government Comprehensive Planning and Land Development Regulation Act, F.S. § 163.3161 et seq.

(4) The CIE, capital improvement program and the annual city budget include transportation facility capital improvements whose need is attributable to anticipated new growth and development.

(b) The city commission has considered the matter of financing new transportation facilities, the need for which is necessitated by new development. The city commission hereby finds and declares that an impact fee imposed upon new development to finance transportation facilities furthers the public health, safety and welfare of the City of North Port. Therefore, the city commission deems it advisable to adopt this division.

(Code 1990, § 136-57)

Sec. 58-404. Intent.

(a) This division is intended to impose a fee, payable at the time of certificate of occupancy issuance, in an amount based upon the amount of new transportation facility demand attributable to new development and the cost of providing the additional transportation facilities needed to serve that new development. This division shall not be construed to authorize imposition of fees related to transportation improvement needs attributable to existing development.

(b) The impact fees adopted pursuant to this division are based upon the calculation methodology incorporated in Duncan Associates, Impact Fee Update Study of North Port, Florida, August 1999.

(Code 1990, § 136-58)

Sec. 58-405. Definitions.

As applied in this division, the following words and terms shall have the following meanings, unless another meaning is clearly intended:

Applicant. The property owner or duly designated agent of the property owner of land on which a building permit is requested and a transportation impact fee is due pursuant to this division.

Building permit. The permit required for new construction and additions pursuant to the City of North Port's existing subdivision and zoning regulations.

Capital improvements element (CIE). The capital improvements element of the adopted City Comprehensive Plan.

Capital improvements program (CIP). The five-year schedule of public improvements, including those for transportation facilities, adopted by the city annually as part of the city budget process.

Capital transportation facilities. A capital improvement which is required by the city in order to serve the demand generated by new development to maintain the city's existing level of service for transportation facilities.

Certificate of occupancy (CO). The authorization issued by the city for use of a building or premises.

Collecting agency. The city department or official authorized to issue building permits.

Feepayer. A person who is obligated to pay an impact fee in accordance with the terms of this division.

Nonresidential development. The construction of any nonresidential structures.

Residential development. The construction, either separately or combined together, of one or more of the following unit types:

- (1) Single-family.
- (2) Multifamily.
- (3) Mobile home.

Transportation capital improvement. The planning of, engineering for, acquisition of land and equipment for and the construction of improvements for transportation facilities. A "capital improvement" does not include periodic or routine maintenance, nor does it include operations.

Transportation impact fee. A fee imposed on new development proportionate with the costs the city will incur to provide transportation facilities needed to serve that new development at the existing level of service for transportation facilities.

Transportation system. All arterial and collector roadways identified on the city's adopted Transportation Circulation Map, including capital improvements, such as signalization, intersection improvements and investments in transit or trolley systems, that demonstrably expand the capacity of the major roadway system to accommodate the transportation demands of new residential and nonresidential development.

(Code 1990, § 136-60)

Sec. 58-406. Applicability; fee determination.

- (a) Any person who shall construct either a new residential or nonresidential development in the City of North Port, as herein defined, shall be obligated to pay a transportation impact fee. The fee shall be determined by the City of North Port and be collected upon the issuance of a certificate of occupancy for the development. If the corresponding building permit is for less than the entire development, the fee shall be computed separately for the amount of development covered by the building permit.
- (b) This division shall not be applicable to certificates of occupancy otherwise necessary for:
 - (1) A house of worship or publicly administered structure, such as a school or library.

(2) Room additions, remodeling, rehabilitation or other improvements to an existing structure, provided that there is no increase in the number of dwelling units for residential use or in the amount of square footage for nonresidential use.

(3) Rebuilding of a damaged or destroyed structure, whether voluntary or involuntary, provided that there is no increase in the number of dwelling units for residential use or in the amount of square footage for nonresidential use.

(4) A change in occupancy without any increase in the number of dwelling units for residential use or in the amount of square footage for nonresidential use.

(5) Veteran's organizations, as defined by Section 501(c)(19) of the Internal Revenue Code.

(c) This division shall not be applicable to certificates of occupancy if a completed application for the corresponding building permit has been submitted to the appropriate governmental entity prior to the effective date of the ordinance from which this division is derived.

(d) Where this division becomes applicable due to an increase in the number of dwelling units for residential use or in the amount of square footage for nonresidential use, the amount of the impact fee shall be based solely upon the increase in the number of dwelling units or amount of square footage.

(Code 1990, § 136-61)

Secs. 58-407--58-425. Reserved.

Subdivision II. Fee Calculation

Sec. 58-426. Issuance of certificate of occupancy.

(a) No certificate of occupancy shall be issued unless the applicant thereof has paid the applicable impact fee imposed by this division unless otherwise exempted under section 58-406 above.

(b) Any certificate of occupancy issued without payment by the applicant and collection by the applicable collecting agency of the required impact fee pursuant to the provisions of this division shall be null and void.

(Code 1990, § 136-62)

Sec. 58-427. Calculation of fee; schedule.

(a) The city shall calculate the impact fee due by:

(1) Verifying the number and type of dwelling units or the square footage, or other measurement, of nonresidential impact that are proposed to be constructed as shown on the building permit application.

(2) Determining the impact fee that shall be applied for each dwelling unit or nonresidential structure pursuant to subsection (b) of this section.

(3) Multiplying the number of dwelling units or unit of nonresidential structures as indicated in subsection (b) below.

(b) Transportation impact fee schedule.

Following are the transportation facility impact fees applicable to new residential and nonresidential development:

TABLE INSET:

Category	Land Use	UNIT	Transportation Impact Fee
Residential	Single-family (detached)	1 unit	\$1,874.42
Residential	Single-family (golf course comm.)	1 unit	\$1,269.35
Residential	Apartment	1 unit	\$1,608.01
Residential	Multifamily (golf course comm.)	1 unit	\$1,087.55
Residential	Single-family (attached)	1 unit	\$1,326.56
Residential	Mobile Home	1 unit	\$618.77
Residential	Adult Living Facility	1 unit	\$495.69
Commercial (Lodging)	Hotel/Motel	1 room	\$831.46
Commercial (Recreational)	Marina	1 berth	\$1,011.90
Commercial (Recreational)	Golf Course	1 acre	\$2,847.68
Commercial (Recreational)	Recreational/Community Center	1,000 sq ft	\$2,088.58
Commercial (Institutional)	Elementary School (Grades K--8)	1 student	\$429.28
Commercial (Institutional)	High School (Grades 9--12)	1 student	\$753.35
Commercial (Institutional)	House of Worship	1 seat	\$21.05
Commercial (Institutional)	Day Care Center	1,000 sq ft	\$4,975.78
Commercial (Medical)	Hospital	1,000 sq ft	\$5,635.38
Commercial (Medical)	Nursing Home	1 bed	\$458.63
Commercial (Medical)	Clinic	1,000 sq ft	\$5,539.80
Commercial (Office)	General Office	1,000 sq ft	\$2,652.53
Commercial (Office)	Corporate Headquarters Building	1,000 sq ft	\$1,859.90

Commercial (Office)	Medical Office Building	1,000 sq ft	\$6,348.66
Commercial (Retail)	Building Materials Store	1,000 sq ft	\$6,838.20
Commercial (Retail)	Specialty Retail	1,000 sq ft	\$7,003.52
Commercial (Retail)	Garden Center/Nursery	1,000 sq ft	\$6,213.10
Commercial (Retail)	Shopping Center	1,000 sq ft	\$7,005.74
Commercial (Retail)	Sit-down Restaurant	1,000 sq ft	\$5,360.28
Commercial (Retail)	High Turnover Sit-down Restaurant	1,000 sq ft	\$7,767.20
Commercial (Retail)	Fast-food Restaurant	1,000 sq ft	\$13,339.80
Commercial (Retail)	New/Used Vehicle Sales	1,000 sq ft	\$3,342.32
Commercial (Retail)	Service Station	1 fuel position	\$3,748.81
Commercial (Retail)	Supermarket	1,000 sq ft	\$4,821.70
Commercial (Retail)	Convenience Market	1,000 sq ft	\$18,833.31
Commercial (Retail)	Furniture Store	1,000 sq ft	\$871.35
Commercial (Financial)	Bank (calculated per square foot plus per drive-thru lane)	1,000 sq ft	\$7,017.60
		1 drive-thru lane	\$9,386.86
Industrial	Manufacturing	1,000 sq ft	\$1,376.96
Industrial	Light Industrial and Warehousing	1,000 sq ft	\$1,787.89
Industrial	Mini-Warehouse	1,000 sq ft	\$507.53

(c) For a proposed mixed-use development, the impact fee for each residential dwelling type and nonresidential structure shall be calculated separately and the fees added together to determine the appropriate impact fee for the development.

(Code 1990, § 136-63)

Sec. 58-428. Fee review.

At least once every two years the city staff, in conjunction with appropriate consultant or commission appointed committee, shall recommend to the city commission whether any changes should be made to the transportation facilities impact fee schedule to reflect changes in the factors that affect the fee schedule. The purpose of this review is to analyze the effects of inflation on the actual costs of facilities, changes to the level of service, changes in the most recent capital improvement program and to ensure that the fee charged new residential development will not exceed its pro rata share for the reasonable anticipated cost of facilities necessitated by its presence.

(Code 1990, § 136-64)

Secs. 58-429--58-454. Reserved.

Subdivision III. Assessment and Appeals

Sec. 58-455. General assessment.

(a) The impact fee shall be computed by the use of an individual assessment of fiscal impact if:

(1) The type of new development being commenced is not one of those types listed on the fee schedule in section 58-427;

(2) The feepayer chooses to have the amount of the fee determined by the use of an individual assessment of fiscal impact; or

(3) The city staff's analysis of the proposed new development concludes that the nature, timing or location of the proposed new development makes it likely to penetrate impacts costing substantially more to remediate than the amount of the fee that would be generated by the use of the fee schedule.

(b) The developer shall be responsible for preparation of the individual assessment of fiscal impact analysis if the developer chooses to conduct the analysis. The city manager or his designee shall be responsible for preparation of the individual assessment of fiscal impact if the type of land development being proposed is interpreted not to be one of those types listed in the fee schedule or analysis of the proposed new development concludes that the nature, timing or location of the proposed new development makes it likely to generate impacts costing substantially more than the amount of the fee generated by the use of the fee schedule. The person who prepares the individual assessment of fiscal impact shall be a qualified professional in the preparation of impact analysis and shall be approved by the city manager or his designee on the basis of professional training and experience. If the city manager or his designee is responsible for preparation of the assessment, he may request the developer to prepare the individual assessment of fiscal impact and credit the cost for such preparation against the impact fees.

(Code 1990, § 136-65)

Sec. 58-456. Standard assessment.

The individual assessment of fiscal impact for the transportation impact fee shall determine if the proposed new development is designed or located so that the new development will need transportation services less than that projected in the fee schedule.

(Code 1990, § 136-66)

Sec. 58-457. Review of application.

(a) An individual assessment of fiscal impact shall be undertaken through the submission of an application of assessment of fiscal impact. A developer may submit such an application at the developer's discretion. The city manager or his designee shall submit such an application for any proposed new development interpreted as not one of those types listed on the fee schedule and for any proposed new land development for which it concludes the nature, timing or location of the proposed new development makes it likely to generate impacts costing substantially more to remediate than the amount of the fee that would be generated by the use of the fee schedule.

(b) Within 20 days of receipt of any application of assessment of fiscal impact, the city manager or his designee shall determine if the application is complete. If the city manager or his designee determines that the application is not complete, a written statement shall be sent to the applicant by mail, specifying the deficiencies. The city manager or his designee shall take no further action on the application until it is deemed complete.

(c) When the city manager or his designee determines the application is complete, the application shall be reviewed and a written decision rendered in 30 days on whether the fee should be modified and, if so, what the amount should be.

(d) If the city manager or his designee finds that the data, information and assumptions used by the applicant to calculate the assessment of fiscal impact for the transportation impact fee satisfies the requirements of this section, the fee determined in the assessment of fiscal impact shall be deemed the fee due and owing for the proposed new development. This adjustment in the fee shall be set forth in a fee agreement.

(Code 1990, § 136-67)

Sec. 58-458. Appeal.

Any person may appeal the city manager's or his designee's decision on his application for assessment of fiscal impact or on an application for assessment of fiscal impact initiated by the city manager or on his proposed new development by filing a petition with the city commission. In reviewing the city manager's or his designee's decision, the city commission shall make written findings of fact and conclusions of law and use the standards established in 58-456.

(Code 1990, § 136-68)

Secs. 58-459--58-484. Reserved.

Subdivision IV. Administration, Refunds and Credits

Sec. 58-485. Disposition of fees.

(a) *Designation of fees.* Any fees collected under this division are expressly designated for the acquisition of transportation capital facilities within the jurisdiction of the City of North Port as hereinafter provided in this section and for the payment of administrative costs to pay for the collection of the impact fees.

- (b) *Collection of impact fees.* Impact fees calculated and imposed pursuant to this division shall be collected by the applicable collecting agency upon issuance of a certificate of occupancy.
- (c) *Transfer of funds to finance department.* Impact fees shall be transferred from the collecting agency to the city's finance department for placement in a separate transportation impact fee trust account, which has been established pursuant to subsection (d) below.
- (d) *Establishment of transportation district and trust account.* There is hereby established one city of North Port Transportation Impact Fee District, which shall encompass all of the property located within the corporate limits of the City of North Port, and a separate transportation trust account for such district for the purpose of ensuring that the impact fees collected for the accommodation of transportation impacts reasonably attributable to the proposed new residential and nonresidential development.
- (e) *Collection and deposit of impact fee.* Every impact fee collected shall be deposited or credited to the City of North Port Transportation Impact Fee Trust Account for the transportation impact fee district, except that annually, up to one percent of the fees collected for that year shall be transferred to the city's general fund for the purpose of paying the costs of administration of the transportation impact fee program.
- (f) *Expenditure of fees.* Impact fees collected and deposited and all interest accrued on such funds shall be used solely for the purpose of capital transportation improvements for the city's transportation system within the transportation impact fee district and for payment of the costs of administration of the transportation impact fee. Eligible improvements include signalization, intersection improvements and investments in transit or trolley systems, that demonstrably expand the capacity of the city's arterial and collector roadway system to accommodate the transportation demands of new residential and nonresidential development.
- (g) *Investment of fees in interest-bearing account.* Any proceeds on deposit in the transportation impact fee trust account not immediately necessary for expenditure shall be invested in interest-bearing accounts. All income derived from these investments shall be retained in the transportation impact fee trust account.
- (h) *Annual recommendation for expenditure of fees.* Each year, at the time the annual city budget is being prepared, the city manager shall propose appropriations to be spent from the transportation trust account. After review of the city manager's recommendation, the city commission shall approve, modify or deny the recommended expenditures of the trust account moneys. Any amounts not appropriated from the trust account, together with any interest earnings, shall be carried over in the trust account to the following fiscal year.

(Code 1990, § 136-69)

Sec. 58-486. Refunds, petitions.

- (a) Any fees collected shall be returned to the feepayer or his successor in interest if the fees have not been spent within five years from the date the certificate of occupancy for the residential or nonresidential development was issued, along with interest of six percent a year; provided, however, that the city commission may, by resolution, extend by up to two years the date at which fees should be refunded. Such an extension should be made upon a finding that within such two-year period, the impact fees will be

expended for specific transportation capital improvements identified in the CIE of the comprehensive plan and that there is a rational nexus between the impact fee and the transportation capital improvements with respect to the demand generated for these improvements by the applicable new development. Fees shall be deemed to be spent on the basis that the first fee collected shall be the first fee spent. The refund of the fees shall be undertaken through the following process:

(1) The current owner of the property must petition the city for the refund within one year following the five-year period from the date on which the impact fee was paid. If the time of refund has been extended pursuant to this subsection (a), the petition shall be submitted within one year following the end of the extension.

(2) The petition must contain the following information:

- a. A notarized sworn statement that the petitioner is the current owner of the property.
- b. A copy of the dated receipt issued for payment of the impact fee.
- c. A certified copy of the latest recorded deed for the property.
- d. A copy of the most recent ad valorem tax bill for the property.

(3) Within one month from the date of receipt of a petition for refund, the city manager or his designee shall review the petition and determine if it is complete. If the city manager or his designee determines the petition is not complete, a written statement specifying the deficiencies shall be sent to the petitioner by certified mail. Unless the deficiencies are corrected, the city manager or his designee shall take no further action on the petition. When the city manager or his designee determines that the petition is complete, the petition shall be reviewed within one month. The city manager or his designee shall approve the refund petition if it is determined that the fee payer or his successor in interest has paid a fee which the city has not spent within the period of time permitted under this section. The refund shall include the fee paid, plus interest of six percent a year.

(b) Any petitioner may appeal the decision on the refund to the city commission by filing a notice of appeal to the city manager within ten working days following the decision. In reviewing the decision on the amount of the refund, the city commission shall use the standards established in subsection (a)(3).

(Code 1990, § 136-70)

Sec. 58-487. Credit amounts.

(a) *General provisions.*

(1) Any person subject to an impact fee pursuant to this division may apply for a credit against any transportation impact fee proposed to be paid for any contribution, payment, construction or dedication of land accepted and received by the City of North Port for any arterial or collector roadway identified in the city's adopted transportation circulation plan after the effective date of the ordinance from which this division is derived, including any contribution, payment, construction or dedication made pursuant to a development order issued by the City of North Port pursuant to its local development reputations, F.S. § 380.06 or any additional development requirement imposed by the Florida Land and Water Adjudicatory Commission on a development of regional impact.

(2) Eligibility for the credit shall be determined by the community development department director based upon a determination as to whether the transportation facility

capital improvement is consistent with the comprehensive plan, CIE and the capital improvement program.

(b) *Amount of credit.*

(1) For credit against any transportation impact fee due under this division, a contribution, payment, construction or land dedication received and accepted by the city after the effective date of the ordinance from which this division is derived shall be credited in an amount equal to 100 percent of the contribution or payment, the actual cost of the construction or the fair market value of the land dedicated for a required transportation capital improvement which expands the capacity of the city's transportation system. For credit valuation purposes, the value of the property which qualifies for the credit shall be the value of said property at the time said property is received and accepted by the city. In no event shall the credit exceed the amount of the otherwise applicable impact fee.

(2) Credit provided for in this section shall be in addition to those recurring revenue credits factored into the impact fee schedule.

(Code 1990, § 136-71)

State law references: Credits against impact fees, F.S. § 380.06(16).

Sec. 58-488. Review of credit application.

(a) The determination of any allowable credit shall be undertaken through the submission of an application for credit agreement, which shall be submitted to the community development department director. The application for credit agreement shall include the following information:

(1) If the proposed application for credit agreement involves credit for the dedication of land:

a. A drawing and legal description of the land;

b. A title opinion or title certificate;

c. The fair market value of the land at the time said land is proposed for dedication as determined by an independent appraisal conducted by an appraiser approved by both the developer and the city. For credit valuation purposes, the value of the property which qualifies for the credit shall be the value of said property at the time said property is received and accepted by the city; and,

d. If applicable, a certified copy of the document in which the land was agreed to be dedicated.

(2) If the proposed application for credit agreement involves construction:

a. The proposed plan of the specific construction prepared and certified by a duly qualified and licensed Florida engineer or contractor; and

b. The projected costs for the suggested capital improvement, which shall be based on local information for similar improvements, along with the construction timetable for the completion thereof. Such estimated costs shall include the cost of construction or reconstruction; the cost of all lands, property, rights, easements and franchises acquired; the cost of plans and specifications; surveys of estimates of costs and of revenues, the costs of professional services; and all other expenses necessary or incident to determining the feasibility or practicability of such construction or reconstruction.

(3) If the proposed application for credit agreement involves a credit for any contribution or payment:

- a. A certified copy of the document in which the contribution or payment was agreed;
 - b. If payment has been made, proof of payment; or
 - c. If payment has not been made, the proposed method of payment.
- (b) Within 20 working days after receipt of the proposed application for credit agreement, the community development department director shall determine if the application is complete. If it is determined that the application is not complete, the community development department director shall send a written statement by certified mail, return receipt requested, to the applicant at the address for the applicant set forth in the application, outlining the deficiencies. The community development department director shall not take further action on the proposed application until all deficiencies have been corrected or otherwise settled. Failure of the applicant to receive the written statement shall not constitute a failure by the city to send said written statement or a failure of notice.
- (c) Once the community development department director determines that the proposed application is complete, he shall review it within 20 working days and approve the proposed credit if it meets the standards set forth in section 58-487(b).
- (d) If the application is approved by the community development department director, a credit agreement which specifically outlines the contribution, payment, construction or land dedication, the time by which it was or shall be completed, dedicated or paid and any extensions of time therefor and the dollar credit that the applicant shall receive for the contribution, payment, construction or dedication shall be prepared. The city shall not execute the credit agreement until the applicant submits a warranty deed satisfactory to the city dedicating the land or an irrevocable and unconditional letter of credit securing the obligation to construct any facilities.
- (Code 1990, § 136-72)

Sec. 58-489. Appeals.

After determination of the amount of the credit, an applicant may appeal such determination to the city commission. The applicant must file a notice of appeal with the city clerk within ten days following the determination of the credit. If the notice of appeal is accompanied by a letter of credit or other sufficient surety, except a corporate performance bond, as determined by the city commission in an amount equal to the impact fee as calculated herein, the collection agency shall issue a building permit. The filing of an appeal shall stay the issuance of the building permit unless such bond or other surety has been filed.

(Code 1990, § 136-73)

Secs. 58-490--58-516. Reserved.

Subdivision V. Mitigation Program

Sec. 58-517. Definitions.

As applied in this subdivision, the following words and terms shall have the following meanings, unless another meaning is plainly intended:

Average wage . The annual average wage for all industries in Sarasota County, as published by the United States Department of Labor, Bureau of Labor Statistics, in the

Annual ES-202 Report of Employment and Wages covered by the Florida Unemployment Compensation Law.

Capital investment. Includes the cost of site development, construction of the buildings/structures, construction of the site and of fixed equipment for the project applying for mitigation.

Certificate of occupancy. A certificate of occupancy issued by the community development department pursuant to this Code. If no certificate of occupancy is required for the construction or occupancy of a structure, then the term shall be deemed to include the building permit or other form of final city approval for the construction or occupancy of a structure.

Comprehensive plan. The document adopted by the City of North Port city commissioners by Ordinance No. 97-27 and amended July 19, 1999.

Economic development plan. The economic development plan as adopted by the city commission and as may be amended from time to time.

Health insurance cost. Includes the health insurance premiums for individual coverage for all full-time employees.

Incremental tax revenue. Includes the increased city ad valorem tax revenue generated by a project which receives transportation impact fee mitigation pursuant to this subdivision. The annual increase in city ad valorem tax revenue shall be calculated based on the difference between the premitigation taxable value and post-mitigation taxable value of the real and tangible property associated with the project and the adopted city ad valorem millage rate. The increased city ad valorem revenue generated by a project shall be treated as incremental tax revenue until the aggregate annual incremental tax revenue of a project equals or exceeds the total mitigation provided on that project.

Local jobs. Those job vacancies created in the City of North Port for bona fide full-time employees of the occupant business/industry.

Occupant business/industry. Includes those businesses or organizations to occupy the project upon issuance of a certificate of occupancy. Such occupancy may be established for purposes of this subdivision by submittal of evidence of ownership, lease, contract or other legal instrument.

Owner/developer. Includes the person, persons or legal entities with ownership of the land and/or improvements comprising the project as defined in this subdivision.

Project. Includes the development project subject to transportation impact fees and for which an application for transportation impact fee mitigation is submitted by the owner/developer.

Public service construction. Land development that is constructed by the private sector for the purpose of providing services that are essentially governmental in nature pursuant to a contractual agreement with a local government. Such developments include developments that provide potable water, sanitary sewer and solid waste collection and recycling services to the community.

Qualified mitigation. The amount of additional mitigation that may be received by an owner/developer as calculated pursuant to section 58-520.

Qualifying jobs. Includes job vacancies created and filled in the City of North Port for bona fide, full-time employees of the occupant business/industry, which jobs have an average wage equal to or exceeding 110 percent of the average wage as defined by this subdivision.

Quality jobs. Those local jobs, as defined in this subdivision, provided by the occupant business/industry that have an average company wage equal to or exceeding 110 percent of the average wage, as defined in this subdivision, provides full-time employment for 90 percent or more of the total salary and wages of the company, provides a safe work environment, as defined in this section, and provides a contribution equal to or exceeding 50 percent of health insurance cost, as defined in this section.

Safe work environment. The provision of a place of employment which is free from recognized hazards that are causing or are likely to cause death or serious physical harm to the employees of the occupant business/industry. Compliance with all applicable state and federal regulations regarding work safety, including, but not limited to, the Occupational Safety and Health Act, 29 USC 651; F.S. § 440.56, and F.S. ch. 442, shall be deemed to constitute fulfillment of this criterion for purposes of the transportation impact fee mitigation program. Additional criteria may be provided in the administrative provisions authorized under section 58-524.

Total jobs. The total number of bona fide, full-time employees of the occupant business/industry.

Total sales. The total sales of products or services by the occupant business/industry. (Code 1990, § 136-74)

Sec. 58-518. Applicability.

This subdivision is only applicable to certificates of occupancy on projects for which a mitigation program application is submitted after the effective date of the ordinance from which this subdivision is derived.

(Code 1990, § 136-75)

Sec. 58-519. Eligibility criteria.

The following criteria will be used in determining eligibility for transportation impact fee mitigation:

- (1) A project that does not qualify as public service construction must be fulfill the following criteria to be eligible for transportation impact fee mitigation:
 - a. The project must be classified in one or more of the categories listed in the following "export-oriented industries" table in order to be eligible for transportation impact fee mitigation.

Export-Oriented Industries

TABLE INSET:

SIC	Industry
01-09	Agriculture, forestry, fishing
20-30	Manufacturing
40	Railroad transportation service
42	Motor freight transportation services
45	Air transportation services
47	Transportation services

50-51	Wholesale trade
5961	Mail order houses
608	Foreign banking
6099	Depository banking functions
615	Business credit institutions
616	Mortgage bankers and brokers
623	Security and commodity exchanges
628	Miscellaneous securities services
63	Insurance carriers
67	Hold and other investment offices
731	Advertising services
732	Consumer credit reporting, mercantile reporting and collection agencies
7331	Direct mail advertising services
7335	Commercial photography
7336	Commercial art and graphic design
735	Equipment leasing and rental
737	Computer services
7383	News syndicates
7384	Photo-finishing laboratories.
7389	Miscellaneous business services
781	Motion-picture production
782	Motion-picture distribution
7922	Theatrical producers
8063	Psychiatric hospitals
8069	Specialty hospitals
807	Medical and dental laboratories
8711	Engineering services
8712	Architectural services
8721	Accounting services
873	Research, development and testing services

b. The project must create a minimum of ten new jobs (having an average wage equal to or exceeding 110 percent of the average annual wage as defined in this subdivision).

(2) A project that qualifies as public service construction as defined in this subdivision, if not otherwise required, is eligible for mitigation. Such mitigation shall be calculated pursuant to section 58-520.

(Code 1990, § 136-76)

Sec. 58-520. Calculation of transportation impact fee mitigation amount.

If a project is eligible for transportation impact fee mitigation under section 58-519, then the amount of mitigation is calculated as follows:

(1) *Mitigation amount.* The maximum mitigation amount is the maximum mitigation which the project can receive, except as otherwise limited in this subdivision. The maximum mitigation for each individual mitigation element is listed below.

(2) *Qualified mitigation calculation.* The qualified mitigation calculation determines the amount of eligible mitigation by examining the following elements; the provision of job vacancies within the City of North Port (job creation element); the provision of quality jobs within the City of North Port (quality job element); the investment in capital improvement (capital investment element); and provisions for the care of employee's children (child care element). The city shall base the qualified mitigation calculation on competent and substantial evidence provided in the mitigation program application. The submittal of such data shall be the responsibility of the owner/developer and shall include a sworn, certified statement by the chief executive officer, or equivalent, of the business or industry and other information as required under adopted mitigation program administrative guidelines.

a. *Job creation element calculation.*

1. The city shall calculate the job creation element based on the project's impact on local employment as measured by the number of new qualifying jobs, as defined in this subdivision, created by the occupant business/industry. The job creation element shall be calculated by the city as follows:

[1] Determine the number of new qualifying jobs.

[2] Multiply the number of new qualifying jobs times \$1,000.00.

[3] Determine the dollar value of 50 percent of the transportation impact fee.

2. The job creation element mitigation amount shall equal either the amount calculated in subsection (b)(2)(a)[2] above or 50 percent of the total transportation impact fees due on the project, whichever amount is less.

b. *Job quality element calculation.* The city shall calculate the job quality element based on the project's impact on the quality of local quality employment opportunities, as identified by the provision of quality jobs, as defined in this subdivision, by the occupant business/industry at the time of application for mitigation. The job quality element shall be determined as follows:

1. Determine if the business/industry meets the criteria for quality jobs, as defined in this subdivision.

2. If the business/industry meets the criteria for quality jobs, the quality job element mitigation amount shall equal 20 percent of the total transportation impact fees due on the project.

3. If the business/industry does not meet the criteria for quality jobs, no mitigation will be provided under the job quality element.

c. *Capital investment.* The city shall calculate the capital investment element based on the following criteria:

1. Determine the total transportation impact fees due on the project;
2. For capital investment of less than \$3,000,000.00 multiply subsection (2)c.1 by 15 percent to obtain the mitigation amount; or
3. For capital investment of \$3,000,000.00 or more, multiply subsection (2)c.1 by 15 percent to obtain the mitigation amount.

d. *Child care element calculation.* The total transportation impact fee amount may be mitigated by five percent for implementation of a child care plan. Such plan, adopted and implemented by the business, must be provided to the city as a part of the documentation provided for transportation impact fee mitigation. Said child care plan must consist of one of the following:

1. Provide on-site or off-site care through local child care providers; or
2. Establish a referral/locator service to assist employees in finding satisfactory child care providers. This may be done by establishing an in-house referral/locator service or utilizing a local service.

e. *Qualified mitigation amount.* The city shall calculate the qualified mitigation amount by adding the job creation element calculated in subsection (1)a; the job quality element calculated in subsection (1)b; the capital investment element calculated in subsection (1)c; and the child care element calculated in subsection (1)d.

(3) *Total mitigation.* The owner/developer shall, except as otherwise limited in this subdivision, be eligible for total mitigation equal to the qualified mitigation amount as calculated in subsection (1)e or equal to the total transportation impact fees due on the project, whichever amount is less. In no event shall the total mitigation amount exceed the total road impact fees due on the project. The owner/developer remains responsible for paying the difference between the total transportation impact fees due on the project and the total mitigation amount at time of certificate of occupancy issuance.

(4) *Public service construction mitigation calculation.*

a. If a project qualifies as public service construction, the amount of mitigation shall be calculated as follows:

1. Determine total revenue, the total revenue or sales of the new occupant business/industry for a period equal in length to the term of the occupant business/industry's contract with the local government;
2. Determine the amount of public service revenue, the total sales and/or cost reductions gained under or as a result of the contract with local government over the term of the contract;
3. Divide the total revenue by the public service revenue to arrive at the public service percentage;
4. Multiply the public service percentage by the total transportation impact fees due on the project.

b. The city shall base the public service mitigation calculation on competent and substantial evidence provided in the mitigation program application. The submittal of such data shall be the responsibility of the owner/developer and shall include a sworn, certified statement by the chief executive officer, or equivalent, of the business or

industry and other information as required under adopted mitigation program administrative guidelines.
(Code 1990, § 136-77)

Sec. 58-521. Limitations on mitigation.

The submittal or approval of a mitigation program application does not establish any right or entitlement to the receipt of mitigation. The actual amount of mitigation funds granted by the city shall be limited by the availability of funds and reduced by the amount of credit or other offsets against impact fees that may be due on the project.
(Code 1990, § 136-78)

Sec. 58-522. Mitigation agreement.

(a) Prior to receiving mitigation, the owner/developer and the city shall enter into a mitigation agreement which shall provide for the following, including, but not limited to:

(1) The obligations and responsibilities of owner/developer, including, but not limited to:

- a. Indemnification of the city; and
- b. Mitigation adjustment through repayment to the city of all or a portion of the mitigation amount upon failure of owner/developer to fulfill the mitigation conditions; and
- c. Requirement for performance bond equal to the amount of the mitigation, assuring compliance with mitigation conditions over a specified period; or
- d. A reimbursement agreement under which the owner/developer would pay the entire amount of transportation impact fees due, to be reimbursed by the city according to an agreed upon schedule of periodic payments for a not to exceed period to be determined by the city, as a means of ensuring compliance with the mitigation conditions; and
- e. Identification of any credits or other offsets against impact fees that may be due on the project;

(2) The obligations and responsibilities of the city; and
(3) The amount of mitigation to be provided by the city.

(b) The city manager, or designee, is authorized to execute mitigation agreements on behalf of the city. Mitigation agreements shall not be executed by the city prior to approval of the site development plan for the project which has applied for mitigation under this subdivision.

(Code 1990, § 136-79)

Sec. 58-523. Mitigation financing.

In order to ensure the integrity of the city's transportation improvement program, all impact fees that are due and payable at the time of certificate of occupancy issuance must be paid. Those impact fees for which a developer receives mitigation are to be paid by the city in the following manner:

(1) Initial mitigation funding. Initial funding of the mitigation program shall be placed in a special revenue fund (referred to herein as the "Economic Development Enhancement Fund"). The source and amount of initial funding shall be determined during the budget process.

(2) Mitigation program funding. The annual incremental tax revenue, as defined in this subdivision, from all projects which have received mitigation funding or other economic development incentives (except such projects that are located within the city's redevelopment area, when established) shall be deposited in the economic development enhancement fund. Tax increment revenue from projects located within the city's community redevelopment area (Activity Center 1) shall return to the redevelopment area tax increment fund rather than to the economic development enhancement fund.

(3) Economic development enhancement fund.

a. The economic development enhancement fund shall be used for providing project mitigation funding and/or may be used for providing other economic development incentives (for example, as matching funds to leverage State of Florida economic development grants) subject to specific authorization by resolution of the city commission.

b. The city commission may, by resolution adopted by a simple majority vote, establish a maximum balance for the economic development enhancement fund. If the deposit of the total incremental tax revenue, as defined in this subdivision, in any fiscal year will cause the economic development enhancement fund to exceed the maximum balance established by resolution, the incremental tax revenue shall be deposited into the economic development enhancement fund only up to the maximum fund balance.

(4) Upon the issuance of a certificate of occupancy for a project receiving mitigation under this subdivision, the city shall ensure that revenue equal to the total mitigation amount applicable to the project is posted to the impact fee special revenue fund.

(Code 1990, § 136-80)

Sec. 58-524. Administration.

Following the adoption of this subdivision, the city may adopt, by resolution, specific provisions for the administration of this subdivision. Such provisions, if adopted, must be in conformance with the following:

(1) *Application for mitigation.* The owner/developer must submit the appropriate completed application forms and supporting documentation to the city no sooner than eight months prior to the anticipated date of issuance of certificate of occupancy, but no later than 60 days prior to the date of issuance of the certificate of occupancy, as defined in this subdivision, for the project, unless this requirement is waived by the city commission. No application for mitigation shall be accepted after the issuance of a certificate of occupancy for a project.

(2) *Program evaluation.* The city manager shall provide a status report to the city commission at such time as the city manager determines that 80 percent or more of the mitigation funds budgeted for the fiscal year have cumulatively been expended, committed by execution of mitigation agreements, or may be committed by execution of mitigation agreements related to pending mitigation applications accepted for review. Such report shall provide an evaluation of the effectiveness of the program, the applicability of the criteria, and make recommendations regarding funding.

(3) *Post-mitigation report.* No later than 90 days after one year following the issuance of the certificate of occupancy for the project, the owner/developer must submit a certified post-mitigation report that provides data indicating that the occupant business/industry has maintained compliance with the job quality criteria, child care

element and that the actual job creation element and capital investment element percentages are equal to or greater than the percentages calculated in section 58-520 and as incorporated into the mitigation agreement. The owner/developer is responsible for obtaining the information and data required for the post-mitigation report. Such data and information shall include, but is not limited to, a sworn, certified statement by the chief executive officer, or equivalent, of the business or industry and other information as may be requested by the city or as required under adopted mitigation program administrative guidelines.

(4) *Mitigation adjustment.* If, following the submittal of the post-mitigation report, the city determines that compliance with the job quality criteria and child care element was not maintained and/or that the actual jobs element and capital investment element percentages were less than the amounts incorporated into the mitigation agreement, then the city may recalculate the total mitigation amount. The difference between the amount mitigated at the time of certificate of occupancy issuance and the amount as recalculated shall be repaid to the city through direct repayment and/or enforcement of the provisions of the performance bond or reimbursement agreement.

IMPACT FEE SHEET SUMMARY

TABLE INSET:

Land Use Type	Library	Parks	Law Enforcement	Fire
Single-family dwelling	\$217.61	\$290.00	\$65.00	\$191.00
Multifamily dwelling	160.86	229.00	65.00	191.00
Mobile home/site	150.87	192.00	65.00	191.00
Hotel/motel/room			29.00	108.00
General commercial, less than 100,000 square feet			66.00	275.00
General commercial, less than 500,000 square feet			66.00	275.00
General commercial, less than 1,000,000 square feet			66.00	275.00
General commercial, more than 1,000,000 square feet			66.00	275.00
Auto sales/repair 1,000 square feet			66.00	275.00
Bank 1,000 square feet			51.00	187.00
Building materials/hardware 1,000 square feet			66.00	275.00
Convenience store 1,000 square feet			66.00	275.00

Discount store 1,000 square feet			66.00	275.00
Furniture store 1,000 square feet			66.00	275.00
Movie theater 1,000 square feet			66.00	275.00
Restaurant, fast-food 1,000 square feet			66.00	275.00
Restaurant, sit-down 1,000 square feet			66.00	275.00
Office, general 1,000 square feet			51.00	187.00
Office, medical 1,000 square feet			51.00	187.00
Hospital 1,000 square feet			51.00	187.00
Nursing home 1,000 square feet			51.00	187.00
Day-care center 1,000 square feet			51.00	187.00
Industrial 1,000 square feet			23.00	112.00
Warehouse 1,000 square feet			23.00	70.00
Miniwarehouse 1,000 square feet			23.00	70.00

Transportation

TABLE INSET:

Category	Land Use	UNIT	Transportation Impact Fee
Residential	Single-family (detached)	1 unit	\$1,874.42
Residential	Single-family (golf course comm.)	1 unit	\$1,269.35
Residential	Apartment	1 unit	\$1,608.01
Residential	Multifamily (golf course comm.)	1 unit	\$1,087.55
Residential	Single-family (attached)	1 unit	\$1,326.56
Residential	Mobile Home	1 unit	\$618.77
Residential	Adult Living Facility	1 unit	\$495.69
Commercial (Lodging)	Hotel/Motel	1 room	\$831.46
Commercial (Recreational)	Marina	1 berth	\$1,011.90
Commercial (Recreational)	Golf Course	1 acre	\$2,847.68
Commercial (Recreational)	Recreational/Community Center	1,000 sq ft	\$2,088.58

Commercial (Institutional)	Elementary School (Grades K--8)	1 student	\$429.28
Commercial (Institutional)	High School (Grades 9--12)	1 student	\$753.35
Commercial (Institutional)	House of Worship	1 seat	\$21.05
Commercial (Institutional)	Day Care Center	1,000 sqft	\$4,975.78
Commercial (Medical)	Hospital	1,000 sqft	\$5,635.38
Commercial (Medical)	Nursing Home	1 bed	\$458.63
Commercial (Medical)	Clinic	1,000 sqft	\$5,539.80
Commercial (Office)	General Office	1,000 sqft	\$2,652.53
Commercial (Office)	Corporate Headquarters Building	1,000 sqft	\$1,859.90
Commercial (Office)	Medical Office Building	1,000 sqft	\$6,348.66
Commercial (Retail)	Building Materials Store	1,000 sqft	\$6,838.20
Commercial (Retail)	Specialty Retail	1,000 sqft	\$7,003.52
Commercial (Retail)	Garden Center/Nursery	1,000 sqft	\$6,213.10
Commercial (Retail)	Shopping Center	1,000 sqft	\$7,005.74
Commercial (Retail)	Sit-down Restaurant	1,000 sqft	\$5,360.28
Commercial (Retail)	High Turnover Sit-down Restaurant	1,000 sqft	\$7,767.20
Commercial (Retail)	Fast-food Restaurant	1,000 sqft	\$13,339.80
Commercial (Retail)	New/Used Vehicle Sales	1,000 sqft	\$3,342.32
Commercial	Service Station	1 fuel	\$3,748.81

(Retail)		position	
Commercial (Retail)	Supermarket	1,000 sqft	\$4,821.70
Commercial (Retail)	Convenience Market	1,000 sqft	\$18,833.31
Commercial (Retail)	Furniture Store	1,000 sqft	\$871.35
Commercial (Financial)	Bank (calculated per square foot Plus per drive-thru lane)	1,000 sqft	\$7,017.60
		1 drive-thru lane	\$9,386.86
Industrial	Manufacturing	1,000 sqft	\$1,376.96
Industrial	Light Industrial and Warehousing	1,000 sqft	\$1,787.89
Industrial	Mini-Warehouse	1,000 sqft	\$507.53

Fire

Note: All residential in the City of North Port is \$191.00. Figures are the lowest and will be used for the new impact fee schedule. Figures shown represent 30 percent of the Duncan Study, and 10% below the current Charlotte and Sarasota County impact fees.

TABLE INSET:

Construction Type	Duncan	Sarasota	Charlotte
Hotel/motel	\$108	\$172	\$41
Retail/commercial	275	172	104
Office/institutional	187	172	82
Industrial	112	172	37
Warehouse	70	172	37

Law Enforcement

Note: All residential for the City of North Port is \$65.00. Sarasota County does not show impact fees. This function is performed by the Sheriff's Department. Figures shown represent 30 percent less than the Duncan study, and 10 percent below the current Charlotte County impact.

TABLE INSET:

Construction Type	Duncan	Charlotte
Hotel/motel	\$123	\$29
Retail/commercial	315	66
Office/institutional	213	51

Industrial	128	23
Warehouse	80	23

Parks

Note: All park impact fees are calculated at 53 percent of the Duncan study.

TABLE INSET:

Unit Type	Duncan	53 percent of
Single-family	\$548	\$290
Multifamily	433	229
Mobile home	362	192
Library impact fees are set by Sarasota County. Current fee is \$217.61.		

(Code 1990, § 136-81)