



**LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB)
TRAFFIC PERFORMANCE STANDARDS SUB-COMMITTEE**

(RELATED TO PROPORTIONATE SHARE PROGRAM)

MAY 9TH, 2018

AGENDA

2300 NORTH JOG ROAD, CONFERENCE ROOM VC-1W-47 – 1ST FLOOR
9:00 AM – 11:00 AM

A. CALL TO ORDER

1. INTERESTED PARTIES AND STAFF INTRODUCTIONS
2. ADDITIONS, SUBSTITUTIONS AND DELETIONS TO AGENDA
3. MOTION TO ADOPT AGENDA

B. REVIEW ULDC ART. 12 TRAFFIC PERFORMANCE STANDARDS

1. REVIEW ART. 12 – RELATED TO PROPORTIONATE SHARE PROGRAM (ATTACHEMENT)

C. INPUT AND COMMENTS

D. SUMMARY OF TODAY'S DISCUSSION

E. AMENDMENT TIMELINE

F. ADJOURN

EXHIBIT G

ARTICLE 12 – TRAFFIC PERFORMANCE STANDARDS
[RELATED TO PROPORTIONATE SHARE PROGRAM]
SUMMARY OF AMENDMENTS
(Updated 01/19/18)

1
2 Part 1. ULDC, Art. 12, Traffic Performance Standards, Chapter Q, Proportionate Fair - Share
3 Program, as follows:
4

<p>Reason for amendments: [Engineering]</p> <p>1. Amendments to the proportionate share Chapter is required to maintain consistency with amendments to Florida Statutes regarding same. Florida law requires local governments that continue to implement a transportation concurrency system to allow applicants to meet required concurrency by entering into a proportionate share agreement.</p>

5 CHAPTER Q PROPORTIONATE ~~FAIR~~-SHARE PROGRAM

6 Section 1 Purpose and Intent

7 The purpose of this ~~Chapter ordinance~~ is to establish a program that meets the requirements of section
8 163.3180(5)(h), F.S., as may be amended, by allowing an applicant to satisfy the traffic concurrency
9 requirements of ULDC and the Plan by entering into a binding agreement to pay for or construct its
10 proportionate share of required improvements method whereby the impacts of development on
11 transportation facilities can be mitigated by the cooperative efforts of the public and private sectors, to be
12 known as the Proportionate Fair-Share Program, as required by and in a manner consistent with
13 §163.3180(16), F.S. [Ord. 2006-043]

14 Section 2 Applicability

15 The Proportionate ~~Fair~~-Share Program shall apply to all Projects that fail to meet the standards of this Article
16 on a collector or arterial road that is not the responsibility of a municipality, or that fail to meet the standards
17 of this Article on a transportation facility maintained by FDOT ~~pursuant to the requirements of Section 3.~~
18 The Proportionate ~~Fair~~-Share Program does not apply to Developments of Regional Impact (DRIs) using
19 proportionate ~~fair~~-share under ~~§s.~~163.3180(12), F.S., or to ~~p~~Projects exempted from this Article. [Ord.
20 2006-043]

21 Section 3 General Requirements

- 22 A. An applicant may ~~choose to~~ satisfy the transportation concurrency requirements of Palm Beach
23 County by making a proportionate ~~fair~~-share contribution, pursuant to the following requirements:
24 [Ord. 2006-043]
 - 25 1. The proposed development is consistent with the comprehensive plan and applicable land
26 development regulations. [Ord. 2006-043]
 - 27 2. ~~The road improvement necessary to maintain the adopted LOS is specifically identified for~~
28 ~~construction in the five-year schedule of capital improvements in the CIE of the Plan and~~
29 ~~identified for construction in the adopted Five-Year County Road Program. [Ord. 2006-043]~~
- 30 ~~B.~~ Any improvement project proposed to meet the developer's ~~fair~~-share obligation must meet Palm
31 Beach County's design standards for locally maintained roadways and those of the FDOT for the
32 state highway system. [Ord. 2006-043]
 - 33 3. The proportionate share contribution is applied toward one or more mobility improvements that
34 will benefit a regionally significant transportation facility.
 - 35 4. For Projects located within a municipality, any Proportionate Share Agreement required by an
36 applicant in order to meet traffic concurrency must be entered into by the applicant and PBC
37 prior to receiving a DO from the municipality. The County Engineer may rescind a traffic
38 concurrency approval in the event the Project receives a municipal DO prior to entering into a
39 Proportionate Share Agreement with PBC.

40 Section 4 Intergovernmental Coordination

41 Pursuant to policies in the Intergovernmental Coordination Element of the Plan, Palm Beach County shall
42 coordinate with affected jurisdictions, including FDOT, regarding mitigation to impacted facilities not under
43 the jurisdiction of the local government receiving the application for proportionate ~~fair~~-share mitigation. An
44 interlocal agreement may be established with other affected jurisdictions for this purpose. [Ord. 2006-043]

45 Section 5 Application Process

- 46 A. In the event of a lack of capacity to satisfy transportation concurrency, the applicant shall have the
47 opportunity to satisfy transportation concurrency through the Proportionate ~~Fair~~-Share Program
48 pursuant to the requirements of Section 3. ~~If the impacted facility is on the SIS, then the FDOT~~
49 ~~shall be notified and invited to participate in a pre-application meeting. [Ord. 2006-043]~~

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[RELATED TO PROPORTIONATE SHARE PROGRAM]
SUMMARY OF AMENDMENTS
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- 1 B. Eligible applicants shall submit an application to the County Engineer ~~on a form provided for by the~~
2 ~~County Engineer~~. The County may establish an application fee that does not exceed the cost to
3 the County of reviewing the application. [Ord. 2006-043]
- 4 C. The County Engineer shall review and evaluate the application as part of the Traffic Impact Study
5 as set forth in Article 12.D, Procedure and certify that the application is sufficient and complete
6 within 15 business days. ~~If an application is determined to be insufficient, incomplete or~~
7 ~~inconsistent with the general requirements of the Proportionate Fair Share Program as indicated~~
8 ~~in Section 3, then the applicant will be notified in writing of the reasons for such deficiencies within~~
9 ~~15 business days of submittal of the application. If such deficiencies are not remedied by the~~
10 ~~applicant within 30 days of receipt of the written notification, then the application will be deemed~~
11 ~~abandoned. [Ord. 2006-043]~~
- 12 ~~D. Pursuant to §163.3180(16) (e), F.S., proposed proportionate fair share mitigation for development~~
13 ~~impacts to facilities on the SIS requires the concurrency of the FDOT. The applicant shall submit~~
14 ~~evidence of an agreement between the applicant and the FDOT for inclusion in the proportionate~~
15 ~~fair share agreement. [Ord. 2006-043]~~
- 16 ED. When an application is deemed sufficient, complete, and eligible, and approved pursuant to ULDC
17 Art. 12.B, Standards, the applicant shall be advised in writing and a proposed proportionate fair-
18 share obligation and binding agreement will be prepared by the County Engineer or the applicant
19 and delivered to the appropriate parties for review, ~~including a copy to the FDOT for any proposed~~
20 ~~proportionate fair share mitigation on a SIS facility, no later than 60 days from the date at which~~
21 ~~the applicant received the notification of an eligible application. [Ord. 2006-043]~~
- 22 FE. No ~~p~~Proportionate ~~f~~air-~~s~~Share ~~a~~Agreement will be effective until approved by the County. [Ord.
23 2006-043]

24 **Section 6 Determining Proportionate Fair-Share Obligation**

- 25 A. Proportionate ~~fair~~-share mitigation for concurrency impacts may include, without limitation,
26 separately or collectively, private funds, ~~contributions of land,~~ and construction and contribution of
27 facilities. [Ord. 2006-043]
- 28 B. A Project eligible for participation under the Proportionate ~~Fair~~-Share Program shall not be required
29 to pay more than its proportionate ~~fair~~-share. The fair market value of the proportionate ~~fair~~-share
30 mitigation for the impacted facilities shall not differ regardless of the method of mitigation. [Ord.
31 2006-043]
- 32 C. The methodology used to calculate a Project's proportionate ~~fair~~-share obligation shall be as
33 provided for in §s. 163.3180(5)(h)(42), F.S., 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 = $\sum [((\text{Development Trips}_i) / (\text{SV Increase}_i)) \times \text{Cost}_i]$

- Where:
- Development Trips = Those trips from the stage or phase of development under review that are assigned to roadway segment "I" and have triggered a deficiency per TPS
 - SV Increase = Service volume increase provided by the eligible improvement to roadway segment "I" per Section 3,
 - Cost = 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 review, inspection, administration, and physical development costs directly associated with construction at the anticipated cost, including contingencies, in the year it will be incurred. [Ord. 2006-043]

- 35
- 36 D. For the purposes of determining proportionate ~~fair~~-share obligations, the County Engineer shall
37 determine improvement costs based upon the actual ~~and/or anticipated~~ costs of the improvement
38 ~~at the time of application, in the year that construction will occur but shall be subject to an~~
39 ~~adjustment calculation to account for changes in road development costs that may occur between~~
40 ~~the date of Proportionate Share Agreement and the date each Proportionate Share Payment is~~
41 ~~due. The method of calculating said adjustment and appropriate Producer Price Index for~~
42 ~~Commodities shall be included in the Proportionate Share Agreement. [Ord. 2006-043]~~
- 43 E. If the County has accepted an improvement proposed by the applicant, then the value of the
44 improvement shall be based on an engineer's certified cost estimate provided by the applicant and

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approved by the County Engineer or other method approved by the County Engineer. [Ord. 2006-043]

~~F. If the County has accepted right-of-way dedication for the proportionate fair-share payment, credit for the dedication of the right-of-way shall be valued on the date of the dedication at 120 percent of the most recent assessed value by the Property Appraiser, or at the option of the applicant, by fair market value established by an independent appraisal approved by the County at no expense to the County. This appraisal shall assume no approved development plan for the site. All right-of-way dedicated must be part of a roadway segment that triggered the deficiency per TPS, and must not be site-related. 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 County at no expense to the County. If the estimated value of the right-of-way dedication proposed by the applicant based on a County approved appraisal is more than the county estimated total proportionate fair-share obligation for the development, then the County will give the applicant road impact fee credit for 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. [Ord. 2006-043]~~

Section 7 Impact Fee Credit for Proportionate Fair-Share Mitigation

- A. 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 Article 13, Impact Fees. [Ord. 2006-043]
- B. 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 pursuant to Article 13, Impact Fees. Once the credit has been exhausted, payment of road impact fees shall be required for each permit issued. The impact fee credit shall be established when the proportionate fair-share contribution is received by the County, or when the fair-share amount is secured by Performance Security. [Ord. 2006-043]
- C. The proportionate fair-share obligation is intended to mitigate the transportation impacts of a proposed pProject. As a result, any road impact fee credit based upon proportionate fair-share contributions for a proposed pProject cannot be transferred to any other pProject. [Ord. 2006-043]

Section 8 Proportionate Fair-Share Agreements

- A. Upon execution of a pProportionate fair-sShare aAgreement (“Agreement”), the applicant shall receive a certificate of concurrency approval. Should the applicant fail to apply for a development permit within 12 months, then the Agreement shall be considered null and void, and the applicant shall be required to reapply. [Ord. 2006-043]
- B. Payment of the proportionate fair-share contribution ~~is due in full no later than issuance of the first building permit, and~~ shall be non-refundable. ~~If the payment is submitted more than six 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 6 and adjusted accordingly. [Ord. 2006-043]~~
- C. In the event an Agreement requires the applicant to build one or more road improvements, all such improvements must be commenced prior to issuance of a development permit and assured by a binding agreement that is accompanied by a Performance Security sufficient to ensure the completion of all required improvements. It is the intent of this Section that any required improvements be completed before issuance of certificates of occupancy. [Ord. 2006-043]
- ~~D. Dedication of necessary R-O-W for facility improvements pursuant to a proportionate fair-share agreement must be completed prior to issuance of the first building permit but shall not include a building permit issued for a dry model. [Ord. 2006-043]~~
- ED.** Any requested change to a development pProject 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. [Ord. 2006-043]
- FE.** 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 paid to Palm Beach County will be non-refundable. [Ord. 2006-043]
- GF.** Palm Beach County may enter into proportionate fair-share agreements for selected corridor improvements to facilitate collaboration among multiple applicants on improvements to a shared transportation facility. [Ord. 2006-043]

~~**Section 9 Appropriation of Fair-Share Revenues**~~

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- 1 ~~—A. Proportionate fair-share revenues shall be placed in the appropriate project account for funding of~~
2 ~~scheduled improvements in the CIE, or as otherwise established in the terms of the proportionate~~
3 ~~fair-share agreement. Proportionate fair-share revenues may be used as the 50 percent local~~
4 ~~match for funding under the FDOT TRIP, or any other matching requirement for State and Federal~~
5 ~~grant programs as may be allowed by law. **[Ord. 2006-043]**~~
6 ~~—B. In the event a scheduled facility improvement is removed from the CIE, then the revenues collected~~
7 ~~for its construction may be applied toward the construction of another improvement within that same~~
8 ~~corridor or Impact Fee Benefit Zone that would mitigate the impacts of development pursuant to~~
9 ~~the requirements of Section 3. **[Ord. 2006-043]** **[Ord. 2011-016]**~~

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